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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 laws
15 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 has the statutory authority to accept money on deposit pursuant
7 to title 19, including an entity which is prohibited from accepting deposits by its own by-laws or
8 agreement to form; the term includes, but is not limited to banks, trust companies, savings banks,
9 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 or
14 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 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 Rhode Island general laws § 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, 19-14-2, 19-14-6, 19-14-7, 19-14-8, 19-14-9, 19-14-10,
27 19-14-12, 19-14-14 and 19-14-23 of the General Laws in Chapter 19-14 entitled "Licensed
28 Activities" are 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~~ [14.9](#), 14.10,
31 [14.11](#) and [14.12](#) of this 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 loans," "pay day
- 10 advances," or "deferred presentment loans," in which a cash advance is made to a customer in
- 11 exchange for the customer's personal check, or in exchange for the customer's authorization to
- 12 debit the customer's deposit account, and where the parties agree either that the check will not be
- 13 cashed or deposited, or that customer's deposit account will not be debited, until a designated
- 14 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 representative
- 22 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 loans," "pay-day advances," or "deferred presentment loans" in which a cash
14 advance is made to a customer in exchange for the customer's personal check or in exchange for
15 the customer's authorization to debit the customer's deposit account and where the parties agree
16 either that the check will not be cashed or deposited, or that the customer's deposit account will
17 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 19-14.10-
34 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 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 recommendation
27 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 employee for a person licensed under the provisions of Rhode Island general laws
33 section 19-14-1, et. seq., in return for a salary, wage, or other consideration, where such salary,
34 wage, or consideration is reported by the licensee on a federal form W-2 payroll record. The term

1 does not include any natural person or business entity performing services for a person licensed
2 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 employee" shall mean an employee of a licensee who works under the
6 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 designee
19 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;

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.

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

14 (36) "Third party loan servicer" means a person who engages in the business of servicing
15 a loan, directly or indirectly, owed or due or asserted to be owed or due another.

16 (37) "Writing" means hard copy writing or electronic writing that meets the requirements
17 of Rhode Island general laws § 42-127.1-1 et seq.

18 **19-14-2. Licenses required.** -- (a) No person shall engage within this state in the
19 business of: (1) making or funding loans or acting as a lender or small loan lender; (2) brokering
20 loans or acting as a loan broker; (3) selling checks for a fee or other consideration; (4) cashing
21 checks for a fee or other consideration which includes any premium charged for the sale of goods
22 in excess of the cash price of the goods; (5) providing electronic money transfers for a fee or
23 other consideration; (6) providing debt-management services; or (7) performing the functions of a
24 debt collector; (8) performing the duties of a mortgage loan originator (9) servicing a loan
25 directly or indirectly, owed or due or asserted to be owed or due another; or (10) making deferred
26 deposit loans without first obtaining a license or registration from the director or the director's
27 designee. The licensing requirement for any person providing debt management plans shall apply
28 to all persons, without regard for state of incorporation or a physical presence in this state, who
29 initiate or service debt management plans for residents of this state. Special exemptions from
30 licensing for each activity are contained in other chapters in this title.

31 (b) No lender or loan broker licensee shall permit an employee to act as a mortgage loan
32 originator without first verifying that such originator is licensed under this chapter. No individual
33 may act as a mortgage loan originator without being licensed, or act as a mortgage loan originator
34 for more than one person. The license of a mortgage loan originator is not effective during any

1 period when such mortgage loan originator is not associated with a lender or loan broker licensee.

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

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

9 **19-14-6. Bond of applicant.** -- (a) An applicant for any license shall file with the director
10 or the director's designee a bond to be approved by him or her in which the applicant shall be the
11 obligor.

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

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

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

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

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

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

22 (6) Deferred deposit licensees the sum of fifty thousand dollars (\$50,000) subject to a
23 maximum of one hundred and fifty thousand dollars (\$150,000) when aggregated with agent
24 locations.

25 ~~(6)~~(7) Foreign exchange licensees, the sum of ten thousand dollars (\$10,000);

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

31 ~~(8)~~(9) Each debt-management services registrant, the amount provided in section 19-
32 14.8-13.

33 (10) Each third party loan servicer, the sum of fifty thousand dollars (\$50,000).

34 (c) The bond shall run to the state for the use of the state and of any person who may

1 have cause of action against the obligor of the bond under the provisions of this title and shall be
2 perpetual. The bond shall be conditioned upon the obligor faithfully conforming to and abiding
3 by the provisions of this title and of all rules and regulations lawfully made, and the obligor will
4 pay to the state and to any person any and all money that may become due or owing to the state or
5 to the person from the obligor under and by virtue of the provisions of this title.

6 (d) The provisions of subsection (b)(6) of this section shall not apply to any foreign
7 exchange business holding a valid electronic money transfer license issued pursuant to section
8 19-14-1 et seq., that has filed with the division of banking the bond required by subsections (b)(4)
9 and (b)(7) of this section.

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

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

24 **19-14-7. Issuance or denial of license.** -- (a) Upon the filing of a completed application,
25 the payment of fees and the approval of the bond, the director or the director's designee shall
26 commence an investigation of the applicant.

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

30 (1) That the financial responsibility, experience, character, and general fitness of the
31 applicant, and of the applicant's members and of the applicant's officers, including the designated
32 manager of record of a licensed location, if the applicant is a partnership, limited liability
33 company or association, or of the officers including the designated manager of record of a
34 licensed location, and directors and the principal owner or owners of the issued and outstanding

1 capital stock, if the applicant is a corporation, are such as to command the confidence of the
2 community and to warrant belief that the business will be operated honestly, fairly, and efficiently
3 within the purposes of this title; and

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

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

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

18 (e) Any applicant or licensee aggrieved by the action of the director or the director's
19 designee in denying a completed application for a license shall have the right to appeal the action,
20 order, or decision pursuant to chapter 35 of title 42.

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

32 **19-14-9. Contents of license — Posting. — Contents of license.** -- The license or branch
33 certificate shall contain any information that the director or the director's designee shall require,
34 including the type of activity authorized. ~~With the exception of licensed mortgage loan~~

1 ~~originators, the license or branch certificate shall be kept conspicuously posted in the place of~~
2 ~~business of the licensee.~~ In his or her discretion, the director or designee may substitute an
3 electronic record as the confirmation of a license status in substitution for a license or branch
4 certificate. When dealing with an applicant or potential applicant for a mortgage loan or when
5 dealing with any person providing settlement services (as defined in the Real Estate Settlement
6 Procedures Act, as amended, or the regulations promulgated thereunder from time to time), a
7 mortgage loan originator shall disclose the mortgage loan originator's nationwide mortgage
8 licensing system unique identification number upon request to the applicant or potential applicant
9 and the fact that the mortgage loan originator is licensed by this state. ~~Any licensee who shall~~
10 ~~lose, misplace or mutilate the license or branch certificate shall pay a replacement fee of one~~
11 ~~hundred dollars (\$100) to the director for the use of the state.~~

12 **19-14-10. Attorney for service of process.** -- (a) Every licensee shall appoint and
13 thereafter maintain in this state a resident attorney with authority to accept process for the
14 licensee in this state, including the process of garnishment.

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

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

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

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

34 (5) Upon the filing of any power of attorney required by this section a fee of twenty-five

1 dollars (\$25.00) shall be paid to the director for the use of the state.

2 (6) Any licensee that is a corporation and complies with the provisions of chapter 1.2 of
3 title 7 is exempt from the power of attorney filing requirements of this section. Any licensee that
4 is a limited partnership or limited liability company and complies with the provisions of chapters
5 13 and 16 of title 7 is exempt from the power of attorney requirements of this section.

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

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

1 consistent with the licensing application process. ~~Any person licensed under chapters 25, 25.1,~~
2 ~~25.2, 25.3 or 25.4 of this title as in effect on June 30, 1995, that has maintained more than one~~
3 ~~office licensed under any of those chapters as of June 30, 1995 will automatically be issued~~
4 ~~branch certificates for the comparable licenses under this chapter for all of the locations other~~
5 ~~than the main office as part of the 1996 license renewal process. The original licenses for~~
6 ~~locations deemed to be branches must be surrendered at that time.~~

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

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

33 **19-14-14. Revocation by default.** -- (a) The director or the director's designee may
34 revoke any license without a hearing by default if the licensee fails to respond to notifications

1 informing the licensee of a failure to pay the annual license fee, maintain in effect the required
2 bond or bonds or maintain net worth requirements as required by this title.

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

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

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

24 (b) The director or the director's designee shall make an examination of the affairs,
25 business, office, and records of each licensee and branch location ~~at least once every eighteen~~
26 ~~(18) months~~ as often as is necessary, based upon all relevant factors including the volume of
27 activity within the state. The director or the director's designee may accept in lieu of an
28 examination of the business of a licensed mortgage loan originator, the examination by the
29 director or the director's designee of the licensed lender(s) or licensed loan broker who employ
30 the licensed mortgage loan originator and/or who employed the licensed mortgage loan originator
31 during the period under examination. The total cost of an examination made pursuant to this
32 section shall be paid by the licensee or person being examined, and shall include the following
33 expenses:

34 (1) One hundred fifty percent (150%) of the total salaries and benefits plus one hundred

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

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

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

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

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

30 (e) If the director or his or her designee has reason to believe that any person required to
31 be licensed under this chapter is conducting a business without having first obtained a license
32 under this chapter, or who after the denial, suspension, or revocation of a license is conducting
33 that business, the director or his or her designee may issue an order to that person commanding
34 him or her to cease and desist from conducting that business. The order shall provide an

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

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

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

23 **19-14.8-5. Application for registration -- Form, fee and accompanying documents. --**

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

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

27 (1) The fee established by chapter 19-14;

28 (2) The bond required by section 19-14.8-13;

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

31 (4) Evidence of insurance in the amount of two hundred fifty thousand dollars
32 (\$250,000):

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

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

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

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

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

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

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

12 **19-14.8-11. Renewal of registration.** -- (a) A provider must obtain a renewal of its
13 registration annually.

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

16 (1) Be filed in accordance with section 19-14-22;

17 (2) Be accompanied by the fee established by chapter 19-14 and the bond required by
18 this chapter;

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

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

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

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

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

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

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

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

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

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

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

9 (c) Except for the information required by subsections 19-14.8-6(7), (14), and (17) and
10 the addresses required by subsection 19-14.8-6(4), the director shall make the information in an
11 application for renewal of registration as a provider available to the public.

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

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

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

26 **19-14.9-12. Registration required.** -- (1) After July 1, 2008, no person shall engage
27 within this state in the business of a debt collector, or engage in soliciting the right to collect or
28 receive payment for another of an account, bill or other indebtedness, or advertise for or solicit in
29 print the right to collect or receive payment for another of an account, bill or other indebtedness,
30 without first registering with the director or the director's designee.

31 (2) The application for registration shall be in writing, shall contain information as the
32 director may determine and shall be accompanied by a registration fee of ~~two hundred dollars~~
33 ~~(\$200)~~ one hundred dollars (\$100).

34 (3) The registration shall be for a period of ~~three (3) years~~ one year. Each registration

1 shall plainly state the name of the registrant and the city or town with the name of the street and
2 number, if any, of the place where the business is to be carried on; provided that the business
3 shall at all times be conducted in the name of the registrant as it appears on the registration.

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

8 (5) This section shall not apply:

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

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

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

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

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

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

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

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