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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2026

A N A C T

RELATING TO FINANCIAL INSTITUTIONS -- LICENSED ACTIVITIES

Introduced By: Senators Britto, Burke, Urso, and Bissailon

Date Introduced: March 13, 2026

Referred To: Senate Commerce

(Dept. of Business Regulation)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 19-14-1 of the General Laws in Chapter 19-14 entitled "Licensed
2 Activities" is hereby amended to read as follows:

3 **19-14-1. Definitions. [Effective until January 1, 2027.]**

4 Unless otherwise specified, the following terms shall have the following meanings
5 throughout chapters 14, 14.1, 14.2, 14.3, 14.4, 14.6, 14.8, 14.10, and 14.11 of this title:

6 (1) "Board of directors" means the formal body established by an entity that is responsible
7 for corporate governance and compliance with state and federal laws.

8 ~~(2)~~ (2) "Bona fide employee" shall mean an employee of a licensee who works under the
9 oversight and supervision of the licensee.

10 ~~(3)~~ (3) "Check" means any check, draft, money order, personal money order, or other
11 instrument for the transmission or payment of money. For the purposes of check cashing, travelers
12 checks or foreign denomination instruments shall not be considered checks. "Check cashing"
13 means providing currency for checks.

14 ~~(4)~~ (4) "Check cashier" means a person or entity who or that, for compensation, engages, in
15 whole or in part, in the business of cashing checks.

16 (5) "Corporate governance" means the structure of a business entity and how it is managed
17 including the corporate rules, policies, processes, and practices used to oversee and manage the
18 business entity.

19 (6) "Covered mortgage servicer" means a nonbank mortgage servicer with servicing

1 portfolios of two thousand (2,000) or more one to four (4) unit residential mortgage loans serviced
2 or subserviced for others, excluding whole loans owned, and loans being interim serviced prior to
3 sale as of the most recent calendar year end, reported in the NMLS Mortgage Call Report, and that
4 operates in two (2) or more states, districts, or territories of the United States either currently or as
5 of the prior calendar year end.

6 ~~(4)~~(7) “Currency transmission” means engaging in the business of any of the following:

7 (i) Sale or issuance of payment instruments or stored value primarily for personal, family,
8 or household purposes; or

9 (ii) Receiving money or monetary value for transmission or holding funds incidental to
10 transmission within the United States or to locations abroad by any and all means, including
11 payment instrument, stored value, wire, facsimile, or electronic transfer, primarily for personal,
12 family, or household purposes. This includes maintaining control of virtual currency or transactions
13 in virtual currency on behalf of others.

14 ~~(5)~~(8) “Deferred-deposit transaction” means any transaction, such as those commonly
15 known as “payday loans,” “payday advances,” or “deferred-presentment loans,” in which a cash
16 advance is made to a customer in exchange for the customer’s personal check or in exchange for
17 the customer’s authorization to debit the customer’s deposit account and where the parties agree
18 either that the check will not be cashed or deposited, or that the customer’s deposit account will not
19 be debited until a designated future date.

20 ~~(6)~~(9) [Deleted by P.L. 2019, ch. 226, § 1 and P.L. 2019, ch. 246, § 1.]

21 ~~(7)~~(10) “Deliver” means to deliver a check to the first person who, in payment for the
22 check, makes, or purports to make, a remittance of, or against, the face amount of the check,
23 whether or not the deliverer also charges a fee in addition to the face amount and whether or not
24 the deliverer signs the check.

25 (11) “External audit” means the formal report prepared by an independent certified public
26 accountant expressing an opinion on whether the financial statements are presented fairly, in all
27 material aspects, in accordance with the applicable financial reporting framework, and is inclusive
28 of an evaluation of the adequacy of an entity’s internal control structure.

29 ~~(8)~~(12) “Insurance premium finance agreement” means an agreement by which an insured,
30 or prospective insured, promises to pay to an insurance premium finance company the amount
31 advanced, or to be advanced, under the agreement to an insurer or to an insurance producer, in
32 payment of a premium, or premiums, on an insurance contract, or contracts, together with interest
33 and a service charge, as authorized and limited by this title.

34 ~~(9)~~(13) “Insurance premium finance company” means a person or entity engaged in the

1 business of making insurance premium finance agreements or acquiring insurance premium finance
2 agreements from other insurance premium finance companies.

3 (14) “Internal audit” means the internal activity of performing independent, objective
4 assurance and consulting to evaluate and improve the effectiveness of entity operations, risk
5 management, internal controls, and governance processes.

6 (15) “Interim serviced prior to sale” means the activity of collecting a limited number of
7 contractual mortgage payments immediately after origination on loans held for sale, but prior to
8 the loans being sold on the secondary market.

9 ~~(10)~~(16)(i) “Lender” means any person who makes or funds a loan within this state with
10 the person’s own funds, regardless of whether the person is the nominal mortgagee or creditor on
11 the 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 lender
15 within this state;

16 (C) The loan closes within this state;

17 (D) A retail installment contract as defined herein is created;

18 (E) The loan solicitation is done by an individual with a physical presence in this state; or

19 (F) The lender maintains an office in this state;

20 (iii) The term “lender” shall also include any person engaged in a transaction whereby the
21 person makes or funds a loan within this state using the proceeds of an advance under a line of
22 credit over which proceeds the person has dominion and control and for the repayment of which
23 the person is unconditionally liable. This transaction is not a table-funding transaction. A person is
24 deemed to have dominion and control over the proceeds of an advance under a line of credit used
25 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 ~~(11)~~(17) “Licensee” means any person licensed under this chapter.

2 ~~(12)~~(18) “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 “payday loans,” “payday
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 the customer’s deposit account will not be debited, until a designated
14 future date.

15 ~~(13)~~(19) “Loan broker” means any person or entity who or that, for compensation or gain,
16 or in the expectation of compensation or gain, either directly or indirectly, solicits, processes,
17 negotiates, places, or sells a loan within this state for others in the primary market, or offers to do
18 so. A loan broker shall also mean any person who is the nominal mortgagee or creditor in a table-
19 funding transaction. A 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; or

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

26 ~~(14)~~(20) “Loan-closing services” means providing title services, including title searches,
27 title examinations, abstract preparation, insurability determinations, and the issuance of title
28 commitments and title insurance policies, conducting loan closings, and preparation of loan-closing
29 documents when performed by, or under the supervision of, a licensed attorney, licensed title
30 agency, or licensed title insurance company.

31 ~~(15)~~(21) “Loan solicitation” shall mean an effectuation, procurement, delivery and offer,
32 or advertisement of a loan. Loan solicitation also includes providing or accepting loan applications
33 and assisting persons in completing loan applications and/or advising, conferring, or informing
34 anyone regarding the benefits, terms and/or conditions of a loan product or service. Loan

1 solicitation does not include loan processing or loan underwriting as defined in this section. Loan
2 solicitation does not include telemarketing that is defined, for purposes of this section, to mean
3 contacting a person by telephone with the intention of collecting such person’s name, address, and
4 telephone number for the sole purpose of allowing a mortgage loan originator to fulfill a loan
5 inquiry.

6 ~~(16)~~(22) “Loan underwriting” shall mean a loan process that involves the analysis of risk
7 with respect to the decision whether to make a loan to a loan applicant based on credit, employment,
8 assets, and other factors, including evaluating a loan applicant against a lender’s various lending
9 criteria for creditworthiness, making a determination for the lender as to whether the applicant
10 meets the lender’s pre-established credit standards, and/or making a recommendation regarding
11 loan approval.

12 ~~(17)~~(23) “Monetary value” means a medium of exchange, whether or not redeemable in
13 fiat currency.

14 (24) “Mortgage-backed security” or “MBS” means financial instruments, often debt
15 securities, collateralized by residential mortgages.

16 (25) “Mortgage call report” means the quarterly or annual report of residential real estate
17 loan origination, servicing, and financial information completed by entities licensed in the
18 Nationwide Multistate Licensing System.

19 ~~(18)~~(26) “Mortgage loan” means a loan secured in whole, or in part, by real property
20 located in this state.

21 ~~(19)~~(27) “Mortgage loan originator” has the same meaning set forth in § 19-14.10-3.

22 (28) “Mortgage servicing rights investor” or “MSR investor” means an entity that invests
23 in and owns mortgage servicing rights and relies on sub-servicers to administer the loans on their
24 behalf and often referred to as master servicer.

25 ~~(20)~~(29) “Nationwide Multistate Licensing System” means a system involving more than
26 one state, the District of Columbia, or the Commonwealth of Puerto Rico and that is established to
27 facilitate the sharing of regulatory information and the licensing, application, reporting, and
28 payment processes, by electronic or other means, for mortgage lenders and loan brokers and other
29 licensees required to be licensed under this chapter.

30 ~~(21)~~(30) “Natural person employee” shall mean any natural person performing services as
31 a bona fide employee for a person or entity licensed under § 19-14-1 et seq., in return for a salary,
32 wage, or other consideration, where such salary, wage, or consideration is reported by the licensee
33 on a federal form W-2 payroll record. The term does not include any natural person or business
34 entity performing services for a person licensed under the provisions of Rhode Island general laws

1 in return for a salary, wage, or other consideration, where such salary, wage, or consideration is
2 reported by the licensee on a federal form 1099.

3 ~~(22)~~(31) “Negative equity” means the difference between the value of an asset and the
4 outstanding portion of the loan taken out to pay for the asset, when the latter exceeds the former
5 amount.

6 ~~(23)~~(32) “Negotiates” shall mean, with respect to a loan, to confer directly with, or offer
7 advice directly to, a loan applicant or prospective loan applicant for a loan product or service
8 concerning any of the substantive benefits, terms, or conditions of the loan product or service.

9 ~~(24)~~(33) “Nonprofit organization” means a corporation qualifying as a 26 U.S.C. §
10 501(c)(3) nonprofit organization, in the operation of which no member, director, officer, partner,
11 employee, agent, or other affiliated person profits financially other than receiving reasonable
12 salaries if applicable.

13 (34) “Operating liquidity” means the funds necessary to perform normal business
14 operations, such as payment of rent, salaries, interest expenses, and other typical expenses
15 associated with operating the entity.

16 ~~(25)~~(35) “Operating subsidiary” shall mean a majority-owned subsidiary of a financial
17 institution or banking institution that engages only in activities permitted by the parent financial
18 institution or banking institution.

19 ~~(26)~~(36) “Oversight and supervision of the licensee” shall mean that the licensee provides
20 training to the employee, sets the employee’s hours of work, provides the employee with the
21 equipment required to perform the employee’s duties, and supervises the services provided by the
22 employee to the licensee.

23 ~~(27)~~(37) “Personal money order” means any instrument for the transmission or payment of
24 money in relation to which the purchaser or remitter appoints, or purports to appoint, the seller as
25 his or her agent for the receipt, transmission, or handling of money, whether the instrument is signed
26 by the seller, or by the purchaser, or remitter, or some other person.

27 ~~(28)~~(38) “Primary market” means the market in which loans are made to borrowers by
28 lenders, whether or not through a loan broker or other conduit.

29 ~~(29)~~(39) “Principal owner” means any person or entity who or that owns, controls, votes,
30 or has a beneficial interest in, directly or indirectly, ten percent (10%) or more of the outstanding
31 capital stock and/or equity interest of a licensee.

32 ~~(30)~~(40) “Processes” shall mean, with respect to a loan, any of a series of acts or functions,
33 including the preparation of a loan application and supporting documents, performed by a person
34 that leads to, or results in, the acceptance, approval, denial, and/or withdrawal of a loan application,

1 including, without limitation, the rendering of services, including loan underwriting, obtaining
2 verifications, credit reports or appraisals, communicating with the applicant and/or the lender or
3 loan broker, and/or other loan processing and origination services, for consideration by a lender or
4 loan broker. Loan processing does not include the following:

- 5 (i) Providing loan closing services;
- 6 (ii) Rendering of credit reports by an authorized credit reporting agency; and
- 7 (iii) Rendering of appraisal services.

8 ~~(31)~~(41) “Provisional employee” means a natural person who, pursuant to a written
9 agreement between the natural person and a wholly owned subsidiary of a financial holding
10 company, as defined in the Bank Holding Company Act of 1956 (12 U.S.C. § 1841 et seq.), as
11 amended, a bank-holding company, savings-bank-holding company, or thrift-holding company, is
12 an exclusive agent for the subsidiary with respect to mortgage loan originations and the subsidiary:

13 (a) Holds a valid loan broker’s license; and (b) Enters into a written agreement with the director,
14 or the director’s designee, to include:

15 (i) An “undertaking of accountability,” in a form prescribed by the director, or the director’s
16 designee, for all of the subsidiary’s exclusive agents to include full-and-direct financial and
17 regulatory responsibility for the mortgage loan originator activities of each exclusive agent as if
18 said exclusive agent were an employee of the subsidiary;

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

22 (iii) A restriction of the exclusive agents’ mortgage loan originators’ activities to loans to
23 be made only by the subsidiary’s affiliated bank.

24 ~~(32)~~(42) “Remote location” means a location meeting the requirements of § 19-14-25(b) at
25 which an employee of a licensee may provide services for the licensee notwithstanding that the
26 location differs from the place of business named in the license or a branch certificate issued to the
27 licensee.

28 ~~(33)~~(43) “Retail installment contract” means any security agreement negotiated or
29 executed in this state, or under the laws of this state, including, but not limited to, any agreement
30 in the nature of a mortgage, conditional sale contract, or any other agreement whether or not
31 evidenced by any written instrument to pay the retail purchase price of goods, or any part thereof,
32 in installments over any period of time and pursuant to which any security interest is retained or
33 taken by the retail seller for the payment of the purchase price, or any part thereof, of the retail
34 installment contract.

1 (44) “Risk management program” means the policies and procedures designed to identify,
2 measure, monitor, and mitigate risk sufficient for the level of sophistication of the servicer.

3 ~~(34)~~(45) “Sell” means to sell, to issue, or to deliver a check.

4 ~~(35)~~(46) “Servicing” means receiving a scheduled, periodic payment from a borrower,
5 pursuant to the terms of a loan, including amounts for escrow accounts, and making the payments
6 to the owner of the loan or other third party of principal and interest and other payments with respect
7 to the amounts received from the borrower as may be required pursuant to the terms of the servicing
8 loan documents or servicing contract. In the case of a home equity conversion mortgage or a reverse
9 mortgage, servicing includes making payment to the borrower.

10 (47) “Servicing liquidity” or “liquidity” means the financial resources necessary to manage
11 liquidity risk arising from servicing functions required in acquiring and financing mortgage
12 servicing rights, hedging costs, including margin calls, associated with the mortgage servicing right
13 assets and financing facilities, and advances or costs of advance financing for principal, interest,
14 taxes, insurance and any other servicing related advances.

15 ~~(36)~~(48) “Simple interest” means interest computed on the principal balance outstanding
16 immediately prior to a payment for one plus the actual number of days between payments made on
17 a loan over the life of a loan.

18 ~~(37)~~(49) “Small loan” means a loan of less than five thousand dollars (\$5,000), not secured
19 by real estate, made pursuant to the provisions of chapter 14.2 of this title.

20 ~~(38)~~(50) “Small-loan lender” means a lender engaged in the business of making small loans
21 within this state.

22 ~~(39)~~(51) “Stored value” means monetary value representing a claim against the issuer that
23 is stored on an electronic or digital medium and is evidenced by an electronic or digital record, and
24 that is intended and accepted for use as a means of redemption for money or monetary value or
25 payment for goods or services. The term does not include stored value that is redeemable by the
26 issuer exclusively in goods or services; stored value that is redeemable exclusively in goods or
27 services limited to transactions involving a defined merchant or location or set of locations, such
28 as a specific retailer or retail chain, college campus, or program points, miles, or other units issued
29 in connection with a customer affinity or rewards program, even if there is a secondary market for
30 the stored value.

31 (52) “Sub-servicer” means the entity performing the routine administration of residential
32 mortgage loans as agent of a servicer or mortgage servicing rights investor under the terms of a
33 subservicing contract.

34 (53) “Sub-servicing for others” means the contractual activities performed by sub-servicers

1 [on behalf of a servicer or mortgage servicing rights investor.](#)

2 ~~(40)~~(54) “Table-funding transaction” means a transaction in which there is a
3 contemporaneous advance of funds by a lender and an assignment by the mortgagee or creditor of
4 the loan to the lender.

5 ~~(41)~~(55) “Tangible net worth” means the aggregate assets of a licensee excluding all
6 intangible assets, less liabilities, as determined in accordance with United States generally accepted
7 accounting principles.

8 ~~(42)~~(56) “Third-party loan servicer” means a person or entity who or that, directly or
9 indirectly, engages in the business of servicing a loan secured by residential real estate located in
10 Rhode Island, for a personal, family, or household purpose, owed or due, or asserted to be owed or
11 due, another, or a person or entity that owns the servicing rights to a loan secured by residential
12 real estate located in Rhode Island whether or not that owner services the loan themselves or
13 contracts with another person or entity for the servicing.

14 ~~(43)~~(57) “Virtual currency”:

15 (i) Means a digital representation of value that:

16 (A) Is used as a medium of exchange, unit of account, or store of value; and

17 (B) Is not legal tender, whether or not denominated in legal tender; and

18 (ii) Does not include:

19 (A) A transaction in which a merchant grants, as part of an affinity or rewards program,
20 value that cannot be taken from or exchanged with the merchant for legal tender, bank credit, or
21 virtual currency;

22 (B) A digital representation of value issued by or on behalf of a publisher and used solely
23 within an online game, game platform, or family of games sold by the same publisher or offered
24 on the same game platform;

25 (C) Native digital token used in a proprietary blockchain service platform; or

26 (D) A gift certificate; store gift card; general-use prepaid card; or loyalty, award, or
27 promotional gift card, as these terms are defined in federal Regulation E, 12 C.F.R. § 1005.20(a),
28 without giving effect to any exception as specified in 31 C.F.R. § 1010.100(kkk) or any card, code
29 or device, or other device that can add funds to those products.

30 [\(58\) “Whole loans” mean those loans where a mortgage and the underlying credit risk is](#)
31 [owned and held on a balance sheet of the entity with all ownership rights.](#)

32 ~~(44)~~(59) “Writing” means hard-copy writing or electronic writing that meets the
33 requirements of § 42-127.1-2(7).

34 SECTION 2. Chapter 19-14.11 of the General Laws entitled "Third-Party Loan Servicers"

1 is hereby amended by adding thereto the following sections:

2 **19-14.11-5. Financial Condition.**

3 (a) A covered mortgage servicer must maintain capital and liquidity in compliance with
4 this section.

5 (b) For the purposes of complying with the capital and liquidity requirements of this
6 section, all financial data must be determined in accordance with generally accepted accounting
7 principles (“GAAP”).

8 (c) A covered mortgage servicer that meets the Federal Housing Finance Agency’s
9 Eligibility Requirements for Enterpriser Single Family Seller/Servicers for capital, net worth ratio,
10 and liquidity, regardless of whether the servicer is approved for government sponsored enterprise
11 servicing by the Federal National Mortgage Association (“Fannie Mae”) or the Federal Home Loan
12 Mortgage Corporation (“Freddie Mac”) meets the requirements of subsections (a) and (b) of this
13 section.

14 (1) Covered mortgage servicers shall maintain written policies and procedures
15 implementing the capital and servicing liquidity requirements of the section.

16 (2) Such policies and procedures must include a sustainable written methodology for
17 satisfying the requirements of subsection (c) of this section and be available to the director, or the
18 director’s designee, upon request.

19 (d) Covered mortgage servicers shall maintain sufficient allowable assets for liquidity in
20 addition to the amounts required for servicing liquidity, to cover normal business operations.

21 (1) Covered mortgage servicers shall have in place sound cash management and business
22 operating plans that match the size and sophistication of the institution to ensure normal business
23 operation.

24 (2) Management must develop, establish and implement plans, policies and procedures for
25 maintaining operating liquidity sufficient for the ongoing needs of the institution.

26 (3) Such plans, policies and procedures must contain sustainable, written methodologies
27 for maintaining sufficient operating liquidity and be available to the director, or the director’s
28 designee, upon request.

29 **19-14.11-6. Corporate governance.**

30 (a) Covered mortgage servicers shall establish and maintain a board of directors
31 responsible for oversight of the covered mortgage servicer.

32 (b) For covered mortgage servicers that are not approved to service loans by a government
33 sponsored enterprise, Federal National Mortgage Association (“Fannie Mae”) and Federal Home
34 Loan Mortgage Corporation (“Freddie Mac”) or government National Mortgage Association

1 ("Ginnie Mae") or where these federal agencies have granted approval for a board alternative, a
2 covered institution may establish a similar body constituted to exercise oversight and fulfill the
3 board of directors' responsibilities in subsection (c) of this section.

4 (c) The board of directors shall be responsible for:

5 (1) Establishing a written corporate governance framework, including appropriate internal
6 controls designed to monitor corporate governance and assess compliance with the corporate
7 governance framework, available to the director, or the director's designee, upon request;

8 (2) Monitoring and ensuring institution compliance with the corporate governance
9 framework and Rhode Island general laws; and

10 (3) Accurate and timely regulatory reporting, including the requirements for filing the
11 Nationwide Multistate Licensing System's ("NMLS") Mortgage Call Report.

12 (d) The board of directors shall establish internal audit requirements that are appropriate
13 for the size, complexity, and risk profile of the servicer, with the appropriate independence to
14 provide a reliable evaluation of the servicer's internal control structure, risk management and
15 governance. Board established internal audit requirements, and the results of internal audits shall
16 be made available to the director, or the director's designee, upon request.

17 (e) Covered mortgage servicers shall receive an external audit, including audited financial
18 statements and audit reports conducted by an independent public accountant annually. The external
19 audit shall be available to the director, or the director's designee, upon request and shall include at
20 a minimum:

21 (1) Annual financial statements including a balance sheet, statement of operations or
22 income statement and cash flows, including notes and supplemental schedules prepared in
23 accordance to generally accepted accounting principles;

24 (2) Assessment of the internal control structure;

25 (3) Computation of tangible net worth;

26 (4) Validation of the mortgage servicing rights valuation and reserve methodology, if
27 applicable;

28 (5) Verification of adequate fidelity and errors and omissions insurance; and

29 (6) Testing of controls related to risk management activities, including compliance and
30 stress testing, where applicable.

31 (f) Covered mortgage servicers shall establish a risk management program under the
32 oversight of the board of directors and available to the director, or the director's designee, upon
33 request that identifies, measures, monitors, and controls risk sufficient for the level of sophistication
34 of the servicer. The risk management program must have appropriate processes and models in place

1 to measure, monitor and mitigate financial risks and changes to the risk profile of the servicer and
2 assets being serviced. The risk management program must be scaled to the complexity of the
3 organization, but be sufficiently robust to manage risks in several areas including, but not limited
4 to:

5 (1) Credit risk. The potential that a borrower or counterparty will fail to perform on an
6 obligation.

7 (2) Liquidity risk. The potential that the servicer will be unable to meet its obligations as
8 they come due because of an inability to liquidate assets or obtain adequate funding or that it cannot
9 easily unwind or offset specific exposures.

10 (3) Operational risk. The risk resulting from inadequate or failed internal processes, people,
11 and systems or from external events.

12 (4) Market risk. The risk to the servicer's condition resulting from adverse movements in
13 market rates or prices.

14 (5) Legal risk. The potential that actions against the servicer that result in unenforceable
15 contracts, lawsuits, legal sanctions or adverse judgements can disrupt or otherwise negatively affect
16 the operations or condition of the servicer.

17 (6) Reputation risk. The risk to earnings and capital arising from negative publicity
18 regarding the servicer's business practices.

19 (g) Covered mortgage servicers shall conduct a risk management assessment on an annual
20 basis concluding with a formal report to the board of directors and made available to the director,
21 or the director's designee, upon request. Evidence of risk management activities throughout the
22 year must be maintained and made part of the report, including findings of issues and the response
23 to address those findings.

24 **19-14.11-7. Applicability and exclusions.**

25 (a) Sections 19-14.11-5 and 19-14.11-6 shall apply to covered mortgage servicers defined
26 in § 19-14-1. For entities within a holding company or affiliated group of companies', applicability
27 shall be at the covered mortgage servicer level.

28 (b) The following exclusions shall apply:

29 (1) Section 19-14.11-5 shall not apply to not-for-profit servicers or housing finance
30 agencies.

31 (2) Section 19-14.11-5 shall not apply to servicers solely owning and or conducting reverse
32 mortgage servicing or the reverse mortgage portfolio administered by covered institutions.

33 **19-14.11-8. Authority.**

34 (a) The director, or the director's designee, may adopt rules necessary for the

1 implementation and administration of the provisions of this chapter.

2 (b) The director, or director's designee, may:

3 (1) Where risk is determined by a formal review of a specific covered mortgage servicer to
4 be extremely high, order or direct the covered mortgage servicer to satisfy additional conditions
5 necessary to ensure that the covered mortgage servicer will continue to operate in a safe and sound
6 manner and be able to continue to service loans in compliance with state and federal law and
7 regulation.

8 (2) Where risk is determined by a formal review of a specific covered mortgage servicer to
9 be extremely low, provide notice that all or part of §§ 19-14.11-5 and 19-14.11-6 is not applicable
10 to those covered mortgage servicers.

11 (3) Where economic, environmental, or societal events are determined to be of such
12 severity to warrant a temporary suspension of all or part of §§ 19-14.11-5 and 19-14.11-6, provide
13 public notice of such temporary suspension.

14 SECTION 3. This act shall take effect upon passage.

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LC005442
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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

- 1 This act would establish requirements for capital, liquidity, and corporate governance
- 2 including audit, risk management, and board oversight, for nonbank mortgage servicers.
- 3 This act would take effect upon passage.

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