

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO FINANCIAL INSTITUTIONS

Introduced By: Senators Picard, and Gallo

Date Introduced: March 10, 2011

Referred To: Senate Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 19-4-3 of the General Laws in Chapter 19-4 entitled "Regulatory
2 Oversight" is hereby amended to read as follows:

3 **19-4-3. Records of examinations and reports.** -- (a) The director or the director's
4 designee shall preserve a full record of each examination. The records and information contained
5 in reports of the regulated institution, ~~other than information required by law to be filed,~~ may be
6 provided by the director or the director's designee to the regulated institution examined ~~and, upon~~
7 ~~written request, to the federal bureau of investigation, the United States attorney general, federal~~
8 ~~bank regulatory or federal deposit insuring agencies, other state banking regulatory agencies, the~~
9 ~~Rhode Island state police, or the Rhode Island attorney general.~~

10 (b) Confidential treatment. – (1) Documents, materials or other information in the
11 possession or control of the division of banking that are obtained by or disclosed to the director or
12 the director's designee or any other person in the course of an examination or investigation made
13 pursuant to this chapter shall be confidential by law and privileged, shall not be subject to the
14 Access to Public Records Act, chapter 38-2, shall not be subject to subpoena, and shall not be
15 subject to discovery or admissible in evidence in any private civil action. However, the director
16 is authorized to use the documents, materials or other information in the furtherance of any
17 regulatory or legal action brought as a part of the director's official duties.

18 (2) Neither the director nor any person who received documents, materials or other
19 information while acting under the authority of the director or with whom such documents,

1 materials or other information are shared pursuant to this section shall be permitted or required to
2 testify in any private civil action concerning any confidential documents, materials, or
3 information subject to this section.

4 (3) In order to assist in the performance of the director's duties, the director:

5 (i) May share documents, materials or other information, including the confidential and
6 privileged documents, materials or information subject to subsection 19-14-3(b) with other state,
7 federal and international regulatory agencies and federal deposit insuring agencies, with the
8 Conference of State Banking Supervisors ("CSBS"), and its affiliates and subsidiaries, and with
9 state federal, and international law enforcement authorities, provided that the recipient agrees in
10 writing to maintain the confidentiality and privileged status of the document, material or other
11 information, and has verified in writing the legal authority to maintain confidentiality.

12 (ii) May receive documents, materials or information, including otherwise confidential
13 and privileged documents, materials or information from other state, federal and international
14 regulatory agencies and federal deposit insuring agencies, from the Conference of State Banking
15 Supervisors ("CSBS"), and its affiliates and subsidiaries, and from state, federal, and international
16 law enforcement authorities, and shall maintain as confidential or privileged any document,
17 material or information received with notice or the understanding that it is confidential or
18 privileged under the laws of the jurisdiction that is the source of the document, material or
19 information; and

20 (iii) May enter into written agreements with other state, federal and international
21 regulatory agencies and federal depositing insuring agencies, with the Conference of State
22 Banking Supervisors ("CSBS"), and its affiliates and subsidiaries, and with state, federal and
23 international law enforcement authorities governing sharing and use of information provided
24 pursuant to this section consistent with this section.

25 (4) The sharing of information by the director pursuant to this section shall not constitute
26 a delegation of regulatory authority or rulemaking, and the director is solely responsible for the
27 administration, execution and enforcement of the provisions of this section.

28 (5) No waiver of any applicable privilege or claim of confidentiality in the document,
29 materials or information shall occur as a result of disclosure to the director under this section or
30 as a result of sharing as authorized in subsection 19-14-3(b).

31 (6) Documents, materials or other information filed in the possession or control of CSBS
32 pursuant to this section shall be confidential by law and privileged, shall not be subject to the
33 Access to Public Records Act, chapter 38-2, shall not be subject to subpoena, and shall not be
34 subject to discovery or admissible in evidence in any private civil action.

1 ~~(b)~~ (c) The imparting of this information by the director or the director's designee other
2 than according to the provisions of this chapter shall be sufficient cause for removal, and any
3 such deputy, assistant, or officer, who, except in the discharge of his or her official duty and other
4 than as set out above, imparts this information shall be liable for a fine of not exceeding one
5 thousand dollars (\$1,000) and this deputy or assistant may also be removed from office or
6 employment by the director or the director's designee. These records, examinations, and reports
7 are not subject to the Access to Public Records Act, section 38-2-1 et seq.

8 SECTION 2. Section 19-14.10-14 of the General Laws in Chapter 19-14.10 entitled "An
9 Act Adopting the Federal Secure and Fair Enforcement for Mortgage Licensing Act of 2009" is
10 hereby amended to read as follows:

11 **19-14.10-14. Surety bond required.** -- (a) Each mortgage loan originator shall be
12 covered by a surety bond in accordance with this section. In the event that the mortgage loan
13 originator is an employee of a lender or loan broker licensed under chapter 19-14, the surety bond
14 of such lender or loan broker as required in accordance with the provisions of such chapter and
15 adjusted by the amounts required by this section can be used in lieu of the mortgage loan
16 originator's surety bond requirement.

17 (1) The surety bond shall provide coverage for each mortgage loan originator in an
18 amount as prescribed in subsection (b) of this section.

19 (2) The surety bond shall be in a form as prescribed by the director or the director's
20 designee.

21 (3) The director or the director's designee may promulgate rules or regulations with
22 respect to the requirements for such surety bonds as are necessary to accomplish the purposes of
23 this chapter.

24 (b) The penal sum of the surety bond shall be maintained in an amount that reflects the
25 dollar amount of loans originated as determined by the director or the director's designee by
26 regulation adopted within one hundred twenty (120) days of the effective date of this section.

27 (c) When an action is commenced on a licensee's bond the director or the director's
28 designee may require the filing of a new bond.

29 (d) Immediately upon recovery upon any action on the bond the licensee shall file a new
30 bond.

31 (e) ~~A minimum net worth shall be continuously maintained for mortgage loan originators
32 in accordance with this section. In the event that the mortgage loan originator is an employee, a
33 lender or loan broker licensed under chapter 19-14, the net worth can be used in lieu of the
34 mortgage loan originator's minimum net worth requirement.~~

1 ~~In addition:~~
2 ~~(1) Minimum net worth shall be maintained in an amount that reflects the dollar amount~~
3 ~~of loans originated as determined by the director or the director's designee.~~
4 ~~(2)~~ The director or the director's designee shall within one hundred twenty (120) days of
5 the effective date of this section promulgate rules or regulations with respect to the requirements
6 for ~~minimum net worth~~ surety bonds as are necessary to accomplish the purposes of this chapter.
7 SECTION 3. This act shall take effect upon passage.

=====
LC01228
=====

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

1 This act would eliminate the requirement that mortgage loan originators maintain a
2 minimum net worth as well as a minimum surety bond to qualify for licensure in the state and
3 would instead require maintenance of a surety bond. This act would also modify the information-
4 sharing provisions of the financial institutions examination statute to allow sharing of otherwise
5 confidential and privileged information with the Conference of State Banking Supervisors
6 ("CSBS").

7 This act would take effect upon passage.

=====
LC01228
=====