

**A 10802** Greene (MS) Same as Uni. [S 7431](#) FARLEY  
Banking Law  
TITLE....Relates to registration of  
mortgage loan originators  
04/24/06referred to banks

**S7431** FARLEY Same as Uni. [A 10802](#)  
Greene (MS)  
NOT ON FILE Banking Law  
TITLE....Relates to registration of mortgage  
loan originators  
04/24/06REFERRED TO BANKS

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## STATE OF NEW YORK

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10802 S. 7431

A.

### SENATE - ASSEMBLY

April 24, 2006

IN SENATE -- Introduced by Sen. FARLEY -- read twice and  
ordered printed, and when printed to be committed to the Committee on  
Banks

IN ASSEMBLY -- Introduced by M. of A. GREENE, TOWNS -- read  
once and referred to the Committee on Banks

AN ACT to amend the banking law, in relation to registration of  
mortgage loan originators

The People of the State of New York, represented in Senate  
and Assembly, do enact as follows:

1 Section 1. The banking law is amended by adding a new article  
12-E to

2 read as follows:

- 3 ARTICLE 12-E  
4 REGISTERED MORTGAGE LOAN ORIGINATORS  
5 Section 599-a. Legislative purpose.  
6 599-b. Definitions.  
7 599-c. Registration and application.  
8 599-d. Education requirements.  
9 599-e. Exemptions.  
10 599-f. Required records.  
11 599-g. Suspension and revocation.  
12 599-h. Rules and regulations.

13 § 599-a. Legislative purpose. The legislature deems it  
necessary, in  
14 order to ensure the public welfare, that mortgage loan  
originators who  
15 originate mortgage loans on residential real property be  
subject to  
16 regulation by the superintendent.  
17 § 599-b. Definitions. As used in this article:  
18 1. "Mortgage loan originator" (MLO) means any person  
employed by or  
19 affiliated with an originating entity, as determined by the  
superinten-  
20 dent in his or her sole discretion, or any natural person  
who as an  
21 originating entity, or any substantial stockholder of an  
originating  
22 entity, engages in mortgage loan originating on residential  
property.  
23 An MLO shall not be deemed to mean any natural person who is  
an origi-  
24 nating entity, or any substantial stockholder of an originating  
entity,  
25 or any officer or manager of an originating entity that  
supervises the

EXPLANATION--Matter in italics (underscored) is new; matter in brackets

[-] is old law to be omitted.

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1 activities of MLOs and does not communicate directly with the  
customers  
2 of the originating entity.  
3 2. "Mortgage loan originating" means assisting a customer of  
an origi-  
4 nating entity by engaging in the solicitation, processing,  
negotiation,  
5 placing, making and/or closing of the customer's loan; except  
that an  
6 MLO shall not be deemed to include any person who provides  
clerical or  
7 secretarial services or provides legally related services that  
are not  
8 provided directly by an attorney relating to mortgage loan  
originating  
9 activities of an originating entity.  
10 3. "Originating entity" means a person or entity licensed  
or regis-  
11 tered pursuant to article twelve-D of this chapter.  
12 4. "Education courses" means formal courses of learning, or  
instruc-  
13 tional or training programs which relate to the current  
business of

14 mortgage brokering and mortgage banking which shall be  
15 consistent with,  
16 but not necessarily inclusive of, the curriculum  
17 recommendations of the  
18 National Association of Mortgage Brokers or the Mortgage  
19 Bankers Associ-  
20 ation of America. Such education courses or instructional or  
21 training  
22 programs may include courses or programs as provided by or  
23 sponsored  
24 through the National Association of Mortgage Brokers or the  
25 Mortgage  
26 Bankers Association of America through their New York state  
27 affiliates,  
28 or by or through any other industry trade associations,  
29 originating  
30 entities, or other entities as may be approved by the  
31 superintendent, or  
32 degree and non-degree granting institutions of post-secondary  
33 education  
34 chartered, approved or licensed by the Board of Regents. Any  
35 instruc-  
36 tional or training program shall, at a minimum, provide  
37 instruction or  
38 training in the current statutory and regulatory requirements  
39 and judi-  
40 cial interpretations governing mortgage lending and real  
41 estate trans-  
42 actions and practices.  
43 5. "Mortgage loan" and "residential real property" shall have  
44 the same  
45 meaning as such terms are defined pursuant to section five  
46 hundred nine-  
47 ty of this chapter.  
48 6. "Person" means an individual.  
49 § 599-c. Registration and application. 1. No person shall, on  
50 or after  
51 January first, two thousand seven, engage in mortgage loan  
52 originating  
53 without first being registered by the superintendent as an MLO  
54 pursuant  
55 to this article, unless otherwise exempt pursuant to  
56 section five  
57 hundred ninety-nine-e of this article or regulations of the  
58 superinten-  
59 dent.  
60 2. Upon the filing of an application for registration, if  
61 the super-  
62 intendent shall find the general character and fitness and the  
63 education  
64 qualifications of the applicant are such as to warrant belief  
65 that the  
66 applicant will engage in mortgage loan originating honestly,  
67 fairly, and  
68 efficiently within the purpose of this article, the  
69 superintendent shall

44 thereupon register the applicant as an MLO and issue a  
45 certificate  
46 attesting to such registration in duplicate. As part of such  
47 applica-  
48 tion, the applicant shall pay a fee as determined by the  
49 superintendent  
50 as an investigation and initial registration fee.  
51 Notwithstanding any  
52 other provision of this chapter or the state finance law to  
53 the contra-  
54 ry, such fee shall constitute a general assessment charge  
55 pursuant to  
56 section seventeen of this chapter. The superintendent shall  
57 transmit one  
58 copy of such certificate to the applicant and file another in  
59 his or her  
60 office. If the superintendent shall not so find, the  
61 superintendent  
62 shall not register such applicant and shall notify the  
63 applicant of such  
64 denial in writing; provided, however, the superintendent  
65 shall retain  
66 such initial fee for the expense of processing such application  
67 and such  
68 fee shall constitute a general assessment charge pursuant  
69 to section

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1 seventeen of this chapter, notwithstanding any other provision  
2 of this  
3 chapter or the state finance law to the contrary and  
4 notwithstanding  
5 that such application is denied. Such registration shall remain  
6 in full  
7 force and effect until it is surrendered by the registrant or  
8 suspended  
9 or revoked pursuant to this article, provided, however, that  
10 such regis-  
11 tration shall expire (i) upon failure to pay an annual  
12 registration fee  
13 to the superintendent in an amount as determined by the  
14 superintendent,  
15 which, notwithstanding any other provision of this chapter or  
16 the state  
17 finance law to the contrary, shall constitute a general  
18 assessment  
19 charge pursuant to section seventeen of this chapter, upon the  
20 date any  
21 such payment is due or (ii) upon failure to satisfactorily  
22 complete any  
23 education requirement pursuant to section five hundred ninety-  
24 nine-d of  
25 this article. Such registration shall be reinstated if the  
26 registrant  
27 pays such registration fee or satisfactorily completes any  
28 such educa-

15 tion requirement within sixty days of such expiration.  
16 3. (a) The superintendent may refuse to issue a certificate  
17 pursuant to this article if he or she shall find that the applicant (i)  
18 has been convicted of a crime involving an activity which is a felony  
19 under this chapter or under article one hundred fifty-five, one hundred  
20 seventy, one hundred seventy-five, one hundred seventy-six, one  
21 hundred eighty, one hundred eighty-five, one hundred ninety, two hundred, two  
22 hundred ten or four hundred seventy of the penal law or any  
23 comparable felony under the laws of any other state or the United States,  
24 provided that such crime would be a felony if committed and prosecuted under  
25 the laws of this state, or (ii) has had a registration revoked by the  
26 superinten-  
27 dent or a regulatory person or entity of another state that  
28 regulates persons engaging in mortgage loan originating, or (iii)  
29 has been a director, partner, or substantial stockholder of an  
30 originating entity which has had a registration or license revoked by the  
31 superintendent or a regulatory person or entity of another state that  
32 regulates persons engaging in mortgage loan originating, or (iv) has been an  
33 employee, officer or agent of, or a consultant to, an originating entity  
34 which has had a registration or license revoked by the superintendent, a  
35 regulato-  
36 ry person or entity of another state that regulates persons  
37 engaging in mortgage loan originating where such person shall have been  
38 found by the superintendent or by such similar regulatory person or entity  
39 of another state to bear responsibility in connection with such  
40 revocation.  
41 (b) For the purposes of this subdivision, a person shall be  
42 deemed to have been convicted of a crime if such person shall have pled  
43 guilty to a charge thereof before a court or magistrate, or shall have  
44 been found guilty thereof by the decision or judgment of a court or  
45 magistrate or by the verdict of a jury, irrespective of the pronouncement of  
46 sentence or the suspension thereof, unless such plea of guilty, or such  
47 decision,

44 judgment or verdict, shall have been set aside, reversed or  
otherwise  
45 abrogated by lawful judicial process or unless the person  
convicted of  
46 the crime shall have received a pardon therefor from the  
president of  
47 the United States or the governor or other pardoning authority  
in the  
48 jurisdiction where the conviction was had, or shall have  
received a  
49 certificate of good conduct granted by the board of parole  
pursuant to  
50 the provisions of the executive law to remove the disability  
under this  
51 article because of such conviction.

52 4. Application for a registration required under this article  
shall be

53 (i) submitted by such method and in such form as the  
superintendent may  
54 prescribe; (ii) under oath; and (iii) contain the following  
information:

55 (a) The exact and legal name and residence address of the  
applicant;

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1 (b) The current business name and address, if one, of the  
originating  
2 entity employing the applicant or with which the applicant has  
an affil-

3 iation; and

4 (c) Such other pertinent information as the  
superintendent may  
5 require.

6 5. Notwithstanding article three of the state technology law  
or any  
7 other law to the contrary, the superintendent may require  
that any

8 application for or renewal of a registration or for any other  
submission

9 or approval as may be required by this article, be made or  
executed by

10 electronic means if he or she deems it necessary to ensure the  
efficient

11 and effective administration of this article.

12 § 599-d. Education requirements. Each MLO shall, as a  
condition of

13 initial and subsequent annual registration, satisfactorily  
complete

14 education requirements as prescribed pursuant to this section  
and shall

15 submit acceptable proof of the same as the superintendent  
determines

16 appropriate.

17 1. Within the last five years prior to approval or within  
one year

18 after approval of an application for registration as an MLO,  
19 such person  
19 shall have completed eighteen hours of education courses.  
20 2. Notwithstanding subdivision one of this section or  
20 subdivision one  
21 of section five hundred ninety-nine-c of this article,  
21 any person  
22 employed by or affiliated with an originating entity prior to  
22 January  
23 first, two thousand seven, who engages in mortgage loan  
23 originating on  
24 or after such date, shall comply with the registration and  
24 education  
25 requirements prescribed by this article on or before January  
25 first, two  
26 thousand nine.  
27 3. Following the initial registration period, each MLO, as a  
27 condition  
28 of maintaining registration as an MLO, shall complete a minimum  
28 of eigh-  
29 teen hours of education courses biennially.  
30 4. Each biennial education requirement shall include, but  
30 not neces-  
31 sarily be limited to, education courses in statutory and  
31 regulatory  
32 requirements and judicial interpretations governing mortgage  
32 lending and  
33 real estate transactions and practices; provided, however,  
33 that three  
34 hours of such requirement consist of instruction in ethical  
34 conduct in  
35 the area of mortgage loan originating or lending practices.  
36 § 599-e. Exemptions. 1. The provisions of this article  
36 shall not  
37 apply to an individual employed by a bank, trust company,  
37 private bank-  
38 er, bank holding company, savings bank, savings and loan  
38 association,  
39 thrift holding company or credit union organized under the  
39 laws of this  
40 state, another state or the United States, or a subsidiary or  
40 affiliate  
41 of such a bank, trust company, private banker, bank holding  
41 company,  
42 savings bank, savings and loan association, thrift holding  
42 company or  
43 credit union; provided, however, any such affiliate or  
43 subsidiary  
44 licensed or registered by the superintendent pursuant to  
44 article  
45 twelve-D of this chapter shall provide an educational program  
45 or courses  
46 for its employees who engage in mortgage loan originating as  
46 defined by  
47 this article on behalf of such subsidiary or affiliate, and  
47 provided

48 further that such educational program or courses shall be the  
49 substan-  
49 tial equivalent, as determined by the superintendent, of the  
50 educational  
50 requirements applicable to mortgage loan originators as  
51 required by this  
51 article.

52 2. The provisions of this article shall not apply to an  
53 individual who  
53 is under an exclusive contract with an exempt organization as  
54 defined  
54 pursuant to paragraph (e) of subdivision one of section  
55 five hundred  
55 ninety of this chapter, or an affiliate or subsidiary of  
56 an exempt  
56 organization to the extent that the individual is acting  
57 within the

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1 scope of the individual's employment or exclusive contract and  
2 is acting  
2 within the scope of the charter, license, authority, approval  
3 or certif-  
3 icate of the exempt organization or an affiliate or subsidiary  
4 of the  
4 exempt organization; provided, however, any such affiliate or  
5 subsidiary  
5 of such exempt organization licensed or registered by the  
6 superintendent  
6 pursuant to article twelve-D of this chapter, shall provide  
7 an educa-  
7 tional program or courses for individuals under exclusive  
8 contract with  
8 such affiliate or subsidiary who engage in mortgage loan  
9 originating as  
9 defined by this article on behalf of such affiliate or  
10 subsidiary, and  
10 provided further that such educational program or courses  
11 shall be the  
11 substantial equivalent, as determined by the superintendent,  
12 of the  
12 educational requirements applicable to mortgage loan  
13 originators as  
13 required by this article.

14 3. The provisions of this article shall not be deemed to  
15 require an  
15 attorney at law in good standing in this state, who engages in  
16 mortgage  
16 loan originating, to meet the registration or education  
17 requirements  
17 prescribed pursuant to this article.

18 4. No employee of, or a person affiliated with, an  
19 originating entity  
19 shall be subject to the registration or education requirements  
20 of this

20 article due solely to such employee or person assisting in the  
perform-  
21 ance of the business activities of such originating entity  
that are  
22 incidental to the performance of any mortgage loan  
originating activ-  
23 ities performed by such originating entity.  
24 5. No employee of, or a person affiliated with, an exempt  
organization  
25 shall be subject to the registration or education requirements  
of this  
26 article due to such employee or person assisting in the  
performance of  
27 any business activities of a mortgage broker that is controlled  
by, or  
28 is a subsidiary of, such exempt organization.  
29 6. Variances to, or extensions of, the education  
requirements  
30 prescribed pursuant to this article may be granted by the  
superintendent  
31 (a) for reasons of health certified by an appropriate  
health care  
32 professional; (b) for extended active duty with the armed  
forces of the  
33 United States; or (c) for other good cause deemed acceptable  
by the  
34 superintendent, in his or her sole discretion, which may  
prevent satis-  
35 factory or timely completion of such requirements.  
36 7. Such other persons as may be exempt pursuant to  
regulations of the  
37 superintendent.  
38 § 599-f. Required records. 1. Each originating entity shall  
obtain and  
39 retain acceptable documentation, as determined by the  
superintendent in  
40 his or her sole discretion, of the satisfactory completion of  
education  
41 courses required pursuant to this article by each MLO  
employed by or  
42 affiliated with such originating entity and shall provide such  
documen-  
43 tation at the request of the superintendent.  
44 2. The superintendent shall maintain upon the internet web-  
page of the  
45 department a list of the MLOs registered and in good standing.  
Such list  
46 shall indicate the name, registration number and current  
originating  
47 entity, if any, employing each MLO or with whom such MLO is  
affiliated.  
48 Each originating entity shall on a quarterly basis in each  
calendar year  
49 advise the superintendent, in written or electronic form, of  
any MLOs  
50 employed by or affiliated with such originating entity and  
shall also

51 advise in such report of any dismissal for cause of an MLO  
52 employed by  
53 or affiliated with such originating entity during such quarter,  
54 which is  
55 due or based upon an alleged violation of this chapter.  
56 § 599-g. Suspension and revocation. The superintendent may  
suspend or  
revoke the registration of any MLO, upon notice and  
hearing, for any  
violation of this chapter.

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1 § 599-h. Rules and regulations. The superintendent is hereby  
2 author-  
3 ized and empowered to make such rules and regulations as may  
4 in his or  
5 her judgment be necessary or appropriate for the effective  
6 adminis-  
7 tration or enforcement of this article.

8 § 2. Section 22 of the banking law, as added by chapter  
9 321 of the  
10 laws of 1992, subdivisions (a) and (b) as amended by chapter  
11 302 of the  
12 laws of 2003, is amended to read as follows:

13 § 22. Fingerprints. (a) Notwithstanding any other  
14 provision of law,  
15 every applicant for a license or registration under  
16 articles nine,  
17 nine-A, eleven-B, twelve-B, twelve-C, twelve-D, twelve-E and  
18 thirteen-B  
19 of this chapter and every applicant filing an application to  
20 acquire  
21 control of any licensee or registrant, as the case may be,  
22 under such  
23 articles shall submit simultaneously with an application, his  
24 or her  
25 fingerprints in such form and in such manner as specified by  
26 the divi-  
27 sion of criminal justice services, but in any event, no less  
28 than two  
29 digit imprints. The superintendent shall submit such  
30 fingerprints to the  
31 division of criminal justice services for the purpose of  
32 conducting a  
33 criminal history search and returning a report thereon in  
34 accordance  
35 with the procedures and requirements established by the  
36 division pursu-  
37 ant to the provisions of article thirty-five of the executive  
38 law, which  
39 shall include the payment of the prescribed processing fees.  
40 The super-  
41 intendent shall request that the division submit such  
42 fingerprints to  
43 the federal bureau of investigation, together with the  
44 processing fees

24 prescribed by such bureau, for the purpose of conducting a criminal

25 history search and returning a report thereon. An applicant or regis-

26 trant shall not be required to submit his or her fingerprints as

27 required by this subdivision if such applicant or registrant (i) is

28 already subject to regulation by the department and the applicant or

29 registrant has submitted such fingerprints to the department, such fing-

30 erprints have been submitted to the division of criminal justice

31 services for the purpose of conducting a criminal history search, and a

32 report of such search has been received by the department from such

33 division; or (ii) is subject to regulation by a federal bank regulatory

34 agency and has submitted such fingerprints to such agency which has had

35 a criminal history search conducted of such individual and has shared

36 such information or its determination resulting from such search with

37 the department; or (iii) is an officer or stockholder of a corporation

38 whose common or preferred stock is registered on a national securities

39 exchange, as provided in an act of congress of the United States enti-

40 tled the "Securities Exchange Act of 1934", approved June sixth, nine-

41 teen hundred thirty-four, as amended, or such other exchange or market

42 system as the superintendent shall approve by regulation, and has

43 submitted such fingerprints to such exchange or market system which has

44 had a criminal history search conducted of such individual and has

45 shared such information or its determination resulting from such search

46 with the department; provided, however, that the superintendent may

47 subsequently require such applicant or registrant to submit his or her

48 fingerprints if the superintendent has a reasonable basis for updating

49 the information or determination resulting from the report of the crimi-

50 nal history search conducted at the request of such federal banking

51 agency, exchange or market system.

52 (b) The superintendent shall also, concurrent with an investigation of

53 a licensee or registrant pertaining to a violation of this  
chapter,  
54 submit such fingerprints to the division of criminal justice  
services  
55 for the purpose of conducting a criminal history search and  
returning a  
56 report thereon and through the division to the federal bureau  
of inves-  
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1 tigation for the purpose of a fingerprint check of such  
licensee or  
2 registrant.  
3 (c) For purposes of this section, "applicant" or  
"registrant" shall  
4 include a natural person or such principal, officer, director,  
trustee  
5 or stockholder of any other entity as may be designated by  
the super-  
6 intendent. Notwithstanding any other provision of this  
article, the  
7 superintendent shall not access criminal history data or  
information,  
8 unless any agency from which the superintendent receives  
directly crimi-  
9 nal history data or information has entered into a use and  
dissemination  
10 agreement with the superintendent consistent with the  
provisions of this  
11 section.  
12 § 3. Subdivisions 1, 2 and 5 of section 39 of the banking  
law, as  
13 amended by section 1 of part FF of chapter 59 of the laws of  
2004, are  
14 amended to read as follows:  
15 1. To appear and explain an apparent violation. Whenever  
it shall  
16 appear to the superintendent that any banking organization,  
bank holding  
17 company, registered mortgage broker, licensed mortgage  
banker, regis-  
18 tered mortgage loan originator, licensed lender, licensed  
cashier of  
19 checks, licensed sales finance company, licensed  
insurance premium  
20 finance agency, licensed transmitter of money, licensed budget  
planner,  
21 out-of-state state bank that maintains a branch or  
branches in this  
22 state, or foreign banking corporation licensed by the  
superintendent to  
23 do business or maintain a representative office in this  
state has  
24 violated any law or regulation, he or she may, in his or her  
discretion,

25 issue an order describing such apparent violation and  
requiring such  
26 banking organization, bank holding company, registered  
mortgage broker,  
27 licensed mortgage banker, registered mortgage loan originator,  
licensed  
28 lender, licensed casher of checks, licensed sales finance  
company,  
29 licensed insurance premium finance agency, licensed  
transmitter of  
30 money, licensed budget planner, out-of-state state bank that  
maintains a  
31 branch or branches in this state, or foreign banking  
corporation to  
32 appear before him or her, at a time and place fixed in said  
order, to  
33 present an explanation of such apparent violation.  
34 2. To discontinue unauthorized or unsafe and unsound  
practices. When-  
35 ever it shall appear to the superintendent that any banking  
organiza-  
36 tion, bank holding company, registered mortgage broker,  
licensed mort-  
37 gage banker, registered mortgage loan originator, licensed  
lender,  
38 licensed casher of checks, licensed sales finance company,  
licensed  
39 insurance premium finance agency, licensed transmitter of  
money,  
40 licensed budget planner, out-of-state state bank that maintains  
a branch  
41 or branches in this state, or foreign banking corporation  
licensed by  
42 the superintendent to do business in this state is conducting  
business  
43 in an unauthorized or unsafe and unsound manner, he or she  
may, in his  
44 or her discretion, issue an order directing the discontinuance  
of such  
45 unauthorized or unsafe and unsound practices, and fixing a  
time and  
46 place at which such banking organization, bank holding  
company, regis-  
47 tered mortgage broker, licensed mortgage banker, registered  
mortgage  
48 loan originator, licensed lender, licensed casher of checks,  
licensed  
49 sales finance company, licensed insurance premium finance  
agency,  
50 licensed transmitter of money, licensed budget planner,  
out-of-state  
51 state bank that maintains a branch or branches in this state,  
or foreign  
52 banking corporation may voluntarily appear before him or her  
to present  
53 any explanation in defense of the practices directed in said  
order to be

54 discontinued.

55 5. To keep books and accounts as prescribed. Whenever it shall appear

56 to the superintendent that any banking organization, bank holding compa-

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1 ny, registered mortgage broker or licensed mortgage banker, registered

2 mortgage loan originator, licensed lender, licensed cashier of checks,

3 licensed sales finance company, licensed insurance premium finance agen-

4 cy, licensed transmitter of money, licensed budget planner, agency or

5 branch of a foreign banking corporation licensed by the superintendent

6 to do business in this state, does not keep its books and accounts in

7 such manner as to enable him or her to readily ascertain its true condi-

8 tion, he or she may, in his or her discretion, issue an order requiring

9 such banking organization, bank holding company, registered mortgage

10 broker, licensed mortgage banker, registered mortgage loan originator,

11 licensed lender, licensed cashier of checks, licensed sales finance

12 company, licensed insurance premium finance agency, licensed transmitter

13 of money, licensed budget planner, or foreign banking corporation, or

14 the officers or agents thereof, or any of them, to open and keep such

15 books or accounts as he or she may, in his or her discretion, determine

16 and prescribe for the purpose of keeping accurate and convenient records

17 of its transactions and accounts.

18 § 4. Paragraph (a) of subdivision 1 of section 44 of the banking law,

19 as amended by section 9 of part 0 of chapter 59 of the laws of 2006, is

20 amended to read as follows:

21 (a) Without limiting any power granted to the superintendent under any

22 other provision of this chapter, the superintendent may, in a proceeding

23 after notice and a hearing, require any safe deposit company, licensed

24 lender, licensed cashier of checks, licensed sales finance company,

25 licensed insurance premium finance agency, licensed transmitter of

26 money, licensed mortgage banker, registered mortgage broker,  
registered  
27 mortgage loan originator, or licensed budget planner to  
pay to the  
28 people of this state a penalty for any violation of this  
chapter, any  
29 regulation promulgated thereunder, any final or temporary  
order issued  
30 pursuant to section thirty-nine of this article, any condition  
imposed  
31 in writing by the superintendent or banking board in connection  
with the  
32 grant of any application or request, or any written  
agreement entered  
33 into with the superintendent.  
34 § 5. Subdivision 1 of section 591-a of the banking law, as  
amended by  
35 section 53 of part 0 of chapter 59 of the laws of 2006, is  
amended to  
36 read as follows:  
37 1. An application to become registered as a mortgage broker  
shall be  
38 in writing, under oath, in such form as shall be  
prescribed by the  
39 superintendent, and shall be accompanied by the fingerprints  
of the  
40 applicant. Such fingerprints shall be submitted to the division  
of crim-  
41 inal justice services for a state criminal history record  
check, as  
42 defined in subdivision one of section three thousand thirty-  
five of the  
43 education law, and may be submitted to the federal bureau of  
investi-  
44 gation for a national criminal history record check. Such  
application  
45 shall contain the name and complete business and residential  
address or  
46 addresses of the applicant, or if the applicant is a  
partnership, asso-  
47 ciation, corporation or other form of business organization,  
the names  
48 and complete business and residential addresses of each member,  
director  
49 and principal officer thereof. Such application shall also  
include an  
50 affirmation of financial solvency noting such capitalization  
require-  
51 ments as may be required by the superintendent, and such  
descriptions of  
52 the business activities, financial responsibility,  
educational back-  
53 ground and general character and fitness of the applicant  
as may be  
54 required by the superintendent. Such application shall be  
accompanied by

55 an investigation fee payable to the superintendent as  
prescribed pursu-

56 ant to section eighteen-a of this chapter.

S. 7431

9

A. 10802

1 § 6. This act shall take effect January 1, 2007; provided,  
however,

2 that prior to such date, the addition, amendment and/or repeal  
of any

3 rule or regulation necessary for the implementation of this act  
shall be

4 promulgated by the superintendent of banks; provided further,  
however,

5 that the superintendent of banks in his or her sole  
discretion, may

6 postpone any date prescribed by this act by which any person  
or entity

7 subject to any requirements of this act must be in compliance  
with such

8 requirements until such date or dates as the superintendent  
of banks

9 determines shall achieve the effective implementation of such  
require-

10 ments.

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**NEW YORK STATE ASSEMBLY**  
**MEMORANDUM IN SUPPORT OF LEGISLATION**  
**submitted in accordance with Assembly Rule III, Sec 1(e)**

**BILL NUMBER:** A10802

**SPONSOR:** Greene (MS)

**TITLE OF BILL:** An act to amend the banking law, in relation to registration of mortgage loan originators

**PURPOSE:** To improve the professionalism of the mortgage industry by providing for the registration of individual mortgage loan originators and by setting educational standards for such individuals.

**SUMMARY OF PROVISIONS:** This bill adds a new Article 12-E (sections 599-a through 599-h) to the Banking Law to govern Registered Mortgage Loan Originators (MLOs).

This article provides that mortgage loan originators -- i.e. persons employed by, or affiliated with, a licensed mortgage banker or a registered mortgage broker -- must be individually registered by the Superintendent of Banks. The Superintendent shall maintain a listing on the Banking Department's webpage of registered MLOs.

The bill sets forth standards for the Superintendent to approve or disapprove of an application. The Superintendent is also authorized to

suspend or revoke an MLO's registration for violating the Banking Law.

Each MLO must satisfactorily complete educational requirements. For the initial registration, the person must have completed 18 hours of courses, either within 5 years prior to approval or within one year after approval. Once registered, an MLO must complete 18 hours of education courses biennially, including 3 hours of required instruction in ethical conduct in the area of mortgage loan originating or lending.

A person who has been employed by a licensed mortgage banker or a registered mortgage broker prior to the effective date of this law shall have until January 1, 2009 to comply with the registration and educational requirements enacted by this law.

Persons exempt from the requirements of this new article include employees of mortgage bankers and mortgage brokers whose role is only incidental to mortgage loan originating activities. Persons employed by banking institutions are also exempt. Employees of an affiliate or subsidiary of a banking institution are exempt, provided however that such affiliate or subsidiary must provide an equivalent educational program or courses for its own employees.

The Superintendent of Banks is authorized to postpone any of the deadlines and timeframes for compliance with this act as determined necessary to achieve the effective implementation of such requirements. The Superintendent is given the discretion to grant variances and extensions for meeting the educational requirements.

The bill also amends sections 22, 39 and 44 of the Banking Law to provide that MLOs are subject to the fingerprinting requirements, the Superintendent's enforcement powers and the civil penalty provisions of the Banking Law.

**EXISTING LAW:** Article 12-D of the Banking Law currently provides for the licensing of mortgage bankers and the registration of mortgage brokers. However, there currently is no requirement that persons in the mortgage lending industry be individually registered, nor are there any educational requirements or standards for such persons.

**JUSTIFICATION:** This bill seeks to improve the professionalism of individuals in the mortgage lending industry. It would also strengthen the Banking Department's ability to oversee and regulate the industry. The bill has two main components: it would require the registration of individual mortgage loan originators, and it would set educational standards for such individuals.

New York's Banking Department, and regulators in other states, have identified that individuals who engage in abusive practices tend to move from company to company, and also from state to state. As a result, state regulators, through the Conference of State Bank Supervisors, are working to develop a nationwide registry of mortgage companies and their employees. Such a system would help increase accountability and profes-

sionalism in the industry, and assist regulators in identifying and tracking any bad actors. This bill would greatly assist the Banking Department in its efforts to oversee the mortgage industry and protect consumers. It would also benefit the vast majority of mortgage bankers, mortgage brokers and their employees who operate in a professional manner but are unfairly tarnished by the actions of these bad actors. In order to further protect and promote the integrity of the industry, and improve the quality of service to the consumer, the bill would establish educational requirements for employees of mortgage bankers and mortgage brokers. In order to be effective and to properly serve consumers, mortgage bankers and mortgage brokers should have a solid understanding about all aspects of the mortgage business, including a thorough knowledge of state and federal laws and Banking Department regulations which govern the mortgage industry. The continuing education requirement recognizes that the laws, regulations and practices concerning the mortgage industry keep changing, and that mortgage bankers and mortgage brokers need to keep informed of these changes. Currently, applicants for many other types of licenses, such as an insurance broker's license or a real estate broker's license, must complete certain educational and examination requirements. Once licensed, these individuals must also fulfill continuing education requirements. This bill establishes similar requirements for mortgage bankers and mortgage brokers.

**FISCAL IMPLICATIONS:** None to the State. The Banking Department is funded by the regulated financial services industry. Therefore, any increased costs incurred by the Department in registering mortgage loan originators will be borne solely by the financial services industry.

**LOCAL FISCAL IMPLICATIONS:** None

**EFFECTIVE DATE:** January 1, 2007