START\_STATUTE6-991.  Definitions

In this article, unless the context otherwise requires:

1.  "Affiliate" means an entity that directly or indirectly, through intermediaries, controls, is controlled by or is under common control with the entity specified.

2.  "Clerical or support duties" means duties subsequent to the receipt of a residential mortgage loan application, including both of the following:

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

(b)  The communication with a consumer to obtain the information necessary for the processing or underwriting of a loan if the communication does not include offering or negotiating loan rates or terms or counseling consumers about residential mortgage loan rates or terms.

3.  "Consumer lender" means a person who is licensed pursuant to chapter 5 of this title.

4.  "Continuing education unit" means a fifty minute period of time in a continuing education course that relates to the mortgage industry or to mortgage transactions, including courses taken to maintain recognized industry designations.

5.  "Depository institution" has the same meaning prescribed in the federal deposit insurance act (12 United States Code section 1813) and includes credit unions.

6.  "Federal banking agency" means the board of governors of the federal reserve system, the comptroller of the currency, the director of the office of thrift supervision, the national credit union administration or the federal deposit insurance corporation.

7.  "Immediate family member" means a spouse, child, sibling, parent, grandparent, grandchild, stepparent, stepchild or stepsibling whether related by adoption or blood.

8.  "Judgment" means either:

(a)  A final judgment in a court of competent jurisdiction.

(b)  A criminal restitution order issued pursuant to section 13‑603 or 18 United States Code section 3663.

(c)  An arbitration award that includes findings of fact and conclusions of law, that has been confirmed and reduced to judgment pursuant to section 12‑133 and that was rendered according to title 12 and the rules of the American arbitration association or another recognized arbitration body.

9.  "Judgment debtor" means any defendant under this article who is the subject of a judgment.

10.  "License" means a license issued under this article.

11.  "Licensee" means a person licensed under this article.

12.  "Loan originator":

(a)  Means a natural person who for compensation or gain or in the expectation of compensation or gain does any of the following:

(i)  Takes a residential mortgage loan application.

(ii)  Offers or negotiates terms of a residential mortgage loan.

(iii)  On behalf of a borrower, negotiates with a lender or noteholder to obtain a temporary or permanent modification in an existing residential mortgage loan agreement.

(b)  Does not include:

(i)  An individual engaged solely as a loan processor or underwriter except as provided in section 6‑991.02.

(ii)  A person who only performs real estate brokerage activities and who is licensed in accordance with title 32, chapter 20, unless the person is compensated by a lender, a mortgage broker or any other loan originator or by an agent of the lender, mortgage broker or other loan originator.

(iii)  A person solely involved in extensions of credit relating to a timeshare plan as defined in 11 United States Code section 101(53D).

(iv)  A person who originates five or fewer mortgage loans per calendar year if the source of the prospective financing also makes five or fewer mortgage loans per calendar year.

(v)  A person who takes back a purchase money mortgage in connection with the sale of residential real estate.

(vi)  An employer making a mortgage loan to an employee.

13.  "Loan processor or underwriter" means an individual who performs clerical or support duties as an employee at the direction of and subject to the supervision and instruction of a person who is licensed or who is exempt from licensure under article 1 or 2 of this chapter.

14.  "Mortgage banker" means a person who is licensed pursuant to article 2 of this chapter.

15.  "Mortgage broker" means a person who is licensed pursuant to article 1 of this chapter.

16.  "Mortgage loan" or "residential mortgage loan" means a loan for personal family or household use that is secured by a mortgage, deed of trust or other equivalent consensual security interest on a dwelling, as defined in the truth in lending act (15 United States Code section 1602(v)), or residential real estate on which a dwelling is constructed or intended to be constructed.

17.  "Real estate brokerage activity" means any activity that involves offering or providing real estate brokerage services to the public, including:

(a)  Acting as a real estate salesperson or real estate broker for a buyer, seller, lessor or lessee of real property.

(b)  Bringing together parties interested in the sale, purchase, lease, rental or exchange of real property.

(c)  Negotiating on behalf of any party any portion of a contract relating to the sale, purchase, lease, rental or exchange of real property other than in connection with providing financing with respect to any transaction.

(d)  Engaging in any activity for which a person is required to be licensed as a real estate salesperson or real estate broker under title 32, chapter 20.

(e)  Offering to engage in any activity or act in any capacity described in subdivision (a), (b), (c) or (d) of this paragraph.

18.  "Registered loan originator" means any individual who is both of the following:

(a)  A loan originator who is registered with and maintains a unique identifier through the nationwide mortgage licensing system and registry established by the secure and fair enforcement for mortgage licensing act of 2008 (P.L. 110‑289; 122 Stat. 2810; 12 United States Code sections 5101 through 5116) or its successor.

(b)  An employee of one of the following:

(i)  A depository institution.

(ii)  A subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency.

(iii)  An institution regulated by the farm credit administration.

19.  "Residential mortgage loan servicer" means any person who does either of the following:

(a)  On behalf of the noteholder, collects or receives payments, including payments of principal, interest, escrow monies and other monies due, on obligations due and owing to the noteholder pursuant to a residential mortgage loan.

(b)  When the borrower is in default or in foreseeable likelihood of default, works on behalf of the noteholder with the borrower to modify the obligations either temporarily or permanently in order to avoid foreclosure or otherwise to finalize collection through the foreclosure process.

20.  "Residential real estate" means any property that is located in this state and on which a dwelling is constructed or intended to be constructed.

21.  "Unique identifier" means the number assigned to the loan originator by the nationwide mortgage licensing system and registry or its successor or as the term is used under the secure and fair enforcement for mortgage licensing act of 2008 (P.L. 110‑289; 122 Stat. 2810; 12 United States Code sections 5101 through 5116). END\_STATUTE