

mitted by the President under section 1105 of title 31 for the following fiscal year and if so, the report shall be submitted concurrently to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

**(B) Final report following transition**

**(i) In general**

Following completion of the transition from the use of compensating balances to the use of the appropriations authorized in subsection (b) to pay financial institutions for their services as depositaries and financial agents of the United States, the Secretary of the Treasury shall submit a report on the transition to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

**(ii) Contents of report**

The report submitted under clause (i) shall include a detailed analysis of—

- (I) the cost of transition;
- (II) the direct costs of the services being paid from the appropriations authorized in subsection (b); and
- (III) the benefits realized from the use of direct payment for such services, rather than the use of compensating balance arrangements.

**(d) Omitted**

**(e) Effective date**

Notwithstanding section 20,<sup>1</sup> this section shall take effect on October 28, 2003.

(Pub. L. 108–100, § 19, Oct. 28, 2003, 117 Stat. 1191.)

**Editorial Notes**

REFERENCES IN TEXT

Section 20, referred to in subsec. (e), means section 20 of Pub. L. 108–100, which is set out as an Effective Date note under section 5001 of this title.

CODIFICATION

Section is comprised of section 19 of Pub. L. 108–100. Subsec. (d) of section 19 of Pub. L. 108–100 amended section 412 of this title.

**Statutory Notes and Related Subsidiaries**

FUNDS FOR REIMBURSEMENT FOR DEPOSITORY AND FINANCIAL AGENCY SERVICES

Pub. L. 108–199, div. F, title II, § 218, Jan. 23, 2004, 118 Stat. 321, provided that: “For fiscal year 2004 and each fiscal year thereafter, there are appropriated to the Secretary of the Treasury such sums as may be necessary to reimburse financial institutions in their capacity as depositaries and financial agents of the United States for all services required or directed by the Secretary of the Treasury, or the Secretary’s designee, to be performed by such financial institutions on behalf of the Department of the Treasury or other Federal agencies, including services rendered prior to fiscal year 2004.”

<sup>1</sup> See References in Text note below.

**CHAPTER 51—SECURE AND FAIR ENFORCEMENT FOR MORTGAGE LICENSING**

Sec.

- 5101. Purposes and methods for establishing a mortgage licensing system and registry.
- 5102. Definitions.
- 5103. License or registration required.
- 5104. State license and registration application and issuance.
- 5105. Standards for State license renewal.
- 5106. System of registration administration by Federal agencies.
- 5107. Bureau of Consumer Financial Protection backup authority to establish loan originator licensing system.
- 5108. Backup authority to establish a nationwide mortgage licensing and registry system.
- 5109. Fees.
- 5110. Background checks of loan originators.
- 5111. Confidentiality of information.
- 5112. Liability provisions.
- 5113. Enforcement by the Bureau.
- 5114. State examination authority.
- 5115. Reports and recommendations to Congress.
- 5116. Study and reports on defaults and foreclosures.
- 5117. Employment transition of loan originators.

**§ 5101. Purposes and methods for establishing a mortgage licensing system and registry**

In order to increase uniformity, reduce regulatory burden, enhance consumer protection, and reduce fraud, the States, through the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators, are hereby encouraged to establish a Nationwide Mortgage Licensing System and Registry for the residential mortgage industry that accomplishes all of the following objectives:

- (1) Provides uniform license applications and reporting requirements for State-licensed loan originators.
- (2) Provides a comprehensive licensing and supervisory database.
- (3) Aggregates and improves the flow of information to and between regulators.
- (4) Provides increased accountability and tracking of loan originators.
- (5) Streamlines the licensing process and reduces the regulatory burden.
- (6) Enhances consumer protections and supports anti-fraud measures.
- (7) Provides consumers with easily accessible information, offered at no charge, utilizing electronic media, including the Internet, regarding the employment history of, and publicly adjudicated disciplinary and enforcement actions against, loan originators.
- (8) Establishes a means by which residential mortgage loan originators would, to the greatest extent possible, be required to act in the best interests of the consumer.
- (9) Facilitates responsible behavior in the subprime mortgage market place and provides comprehensive training and examination requirements related to subprime mortgage lending.
- (10) Facilitates the collection and disbursement of consumer complaints on behalf of State and Federal mortgage regulators.

(Pub. L. 110–289, div. A, title V, § 1502, July 30, 2008, 122 Stat. 2810.)

**Statutory Notes and Related Subsidiaries****SHORT TITLE OF 2015 AMENDMENT**

Pub. L. 114-94, div. G, title LXXXVIII, § 88001, Dec. 4, 2015, 129 Stat. 1799, provided that: “This title [amending section 5110 of this title] may be cited as the ‘State Licensing Efficiency Act of 2015’.”

**SHORT TITLE**

Pub. L. 110-289, div. A, title V, § 1501, July 30, 2008, 122 Stat. 2810, provided that: “This title [enacting this chapter] may be cited as the ‘Secure and Fair Enforcement for Mortgage Licensing Act of 2008’ or ‘S.A.F.E. Mortgage Licensing Act of 2008’.”

**§ 5102. Definitions**

For purposes of this chapter, the following definitions shall apply:

**(1) Bureau**

The term “Bureau” means the Bureau of Consumer Financial Protection.

**(2) Federal banking agency**

The term “Federal banking agency” means the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the National Credit Union Administration, and the Federal Deposit Insurance Corporation.

**(3) Depository institution**

The term “depository institution” has the same meaning as in section 1813 of this title, and includes any credit union.

**(4) Loan originator****(A) In general**

The term “loan originator”—

- (i) means an individual who—
  - (I) takes a residential mortgage loan application; and
  - (II) offers or negotiates terms of a residential mortgage loan for compensation or gain;

(ii) does not include any individual who is not otherwise described in clause (i) and who performs purely administrative or clerical tasks on behalf of a person who is described in any such clause;

(iii) does not include a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with applicable State law, unless the person or entity is compensated by a lender, a mortgage broker, or other loan originator or by any agent of such lender, mortgage broker, or other loan originator; and

(iv) does not include a person or entity solely involved in extensions of credit relating to timeshare plans, as that term is defined in section 101(53D) of title 11.

**(B) Other definitions relating to loan originator**

For purposes of this subsection, an individual “assists a consumer in obtaining or applying to obtain a residential mortgage loan” by, among other things, advising on loan terms (including rates, fees, other costs), preparing loan packages, or collecting information on behalf of the con-

sumer with regard to a residential mortgage loan.

**(C) Administrative or clerical tasks**

The term “administrative or clerical tasks” means the receipt, collection, and distribution of information common for the processing or underwriting of a loan in the mortgage industry and communication with a consumer to obtain information necessary for the processing or underwriting of a residential mortgage loan.

**(D) Real estate brokerage activity defined**

The term “real estate brokerage activity” means any activity that involves offering or providing real estate brokerage services to the public, including—

- (i) acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property;
- (ii) bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property;
- (iii) 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 such transaction);
- (iv) engaging in any activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law; and
- (v) offering to engage in any activity, or act in any capacity, described in clause (i), (ii), (iii), or (iv).

**(5) Loan processor or underwriter****(A) In general**

The term “loan processor or underwriter” means an individual who performs clerical or support duties at the direction of and subject to the supervision and instruction of—

- (i) a State-licensed loan originator; or
- (ii) a registered loan originator.

**(B) Clerical or support duties**

For purposes of subparagraph (A), the term “clerical or support duties” may include—

- (i) the receipt, collection, distribution, and analysis of information common for the processing or underwriting of a residential mortgage loan; and
- (ii) communicating with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that such communication does not include offering or negotiating loan rates or terms, or counseling consumers about residential mortgage loan rates or terms.

**(6) Nationwide mortgage licensing system and registry**

The term “Nationwide Mortgage Licensing System and Registry” means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the State licensing and