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Councilmember Vincent B. Orange, Sr.

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To declare the existence of an emergency with respect to the need to standardize licensing and registration application requirements using the Nationwide Mortgage Licensing System and Registry for all non-depository financial institutions regulated through the administration of the District of Columbia Banking Code, to require each applicant obtain a unique identifier from and apply through the Nationwide Mortgage Licensing System, to authorize the Commissioner to waive or modify any of the requirements of this act or other application requirements in the Banking Code and to establish new requirements as needed to participate in the Nationwide Mortgage Licensing System, to authorize use of the Nationwide Mortgage Licensing System for criminal history background checks and credit checks as necessary, to allow the Commissioner to share confidential information with specified third parties including the Nationwide Mortgage Licensing System, to authorize the Commissioner to contract with third parties to collect fees and share information and maintain records, to authorize license renewal and reinstatement periods, to provide for the payments of non-refundable application fees, to provide that the Commissioner shall report Banking Code violations and enforcement actions to the Nationwide Mortgage Licensing System, to require the Commissioner to establish an information challenge process for data entered into the Nationwide Mortgage Licensing System, and to provide that the Commissioner may promulgate regulations to implement the act.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Nationwide Mortgage Licensing System Conformity Emergency Act of 2014”.

Sec. 2. Definitions.

43 For the purposes of this act, the term:

44 (1) “Applicant” means a person filing an initial or renewal application for licensure or
45 registration under the Banking Code.

46 (2) “Application” means an initial or renewal application for licensure or registration
47 under the Banking Code processed through the Department or its designee such as the NMLS or
48 any other person or third party prescribed by the Commissioner.

49 (3) “Banking Code” means the statutory provisions concerning banking and financial
50 institutions which are codified in Title 26 of the District of Columbia Official Code, laws
51 administered by the Commissioner, and rules and regulations promulgated under those statutory
52 provisions and laws.

53 (4) “Commissioner” means the Commissioner of the Department of Insurance, Securities,
54 and Banking.

55 (5) “Conference of State Bank Supervisors” or “CSBS” means the professional
56 association of state officials responsible for chartering, regulating, and supervising state-
57 chartered commercial and savings banks and state-licensed branches and agencies of foreign
58 banks.

59 (6) “Department” means the Department of Insurance, Securities, and Banking.

60 (7) “Nationwide Mortgage Licensing System and Registry” or “NMLS” means a
61 mortgage licensing system developed and maintained by the Conference of State Bank
62 Supervisors, the American Association of residential Mortgage Regulators, or their successors
63 for the licensing and registration of persons engaged in the state-regulated financial service
64 industries.

65 (8) “State regulatory Registry, LLC” or “SRR” means the entity which owns and operates
66 the NMLS, or its successors.

67 (9) "Unique Identifier" means a number or other identifier assigned by protocols
68 established by the NMLS.

69 Sec. 3. Unique identifier required.

70 Each licensee and registrant under the Banking Code shall register with, and maintain a
71 valid unique identifier issued by the NMLS.

72 Sec. 4. Form and contents of application.

73 (a) An application shall be filed on a form prescribed by the Commissioner, including all
74 information required by the Commissioner as set forth by statute or regulation.

75 (b) For purposes of participating in the NMLS, the Commissioner is authorized to waive
76 or modify in whole or by part any statutory or regulatory requirements for applications in any
77 provision of the Banking code, and to establish new requirements as are reasonably necessary to
78 participate in NMLS.

79 Sec. 5. Background checks.

80 The Commissioner may use the NMLS as an agent for requesting information from, and
81 distributing information to, the Federal Bureau of Investigation, the Department of Justice, any
82 governmental agency, or any source as directed by the Commissioner.

83 Sec. 6. Confidential information.

84 To assist in the performance of the Commissioner's duties under this act, the
85 Commissioner may:

86 (1) Share documents, materials, or other information, including confidential and
87 privileged documents, materials, or information subject to this act, with state, federal, and
88 international regulatory agencies and law enforcement authorities, and with the CSBS, SRR,
89 NMLS, and their affiliates or subsidiaries; provided, that the recipient agrees to maintain the
90 confidentiality and privileged status of the documents, materials, or other information;

91 (2) Receive documents, materials, or information, including confidential and privileged
92 documents, materials, or other information, including confidential and privileged documents,
93 materials, or other information, from state, federal or international regulatory agencies or law
94 enforcement authorities or from the CSBS, SRR, NMLS or their affiliates or subsidiaries, and
95 shall maintain as confidential or privileged any documents, materials, or other information
96 received with notice or the understanding that it is confidential or privileged under the laws of
97 the jurisdiction that is the source of the documents, materials, or other information;

98 (3) Enter into agreements for sharing and using confidential information consistent with
99 this act;

100 (4) Authorize a national criminal background check and submission of fingerprints and
101 other identifying information, submitted through the NMLS, and receive criminal history record
102 information from, NMLS, the Metropolitan Police Department, and the Federal Bureau of
103 Investigation for the purposes of facilitating determinations regarding eligibility for licensure or
104 registration under the Banking Code; and

105 (5) Contract with a third party, including the SRR, the CSBS, or their affiliates or
106 subsidiaries, to perform any functions, including the collection of licensing, registration and
107 processing fees, collection of contact information and other identifying information, fingerprints,
108 written consent to a criminal background check, personal history and experience, and conduct of
109 examinations-related activities covered under the Banking Code, that the Commissioner may
110 consider appropriate.

111 Sec. 7. Renewal.

112 (a) A license or registration issued under this act shall expire on a date to be determined
113 by the Commissioner. A license or registration may thereafter be renewed for one-year term
114 extensions as provided by this section.

115 (b) Before a license expires, the applicant may renew the license or registration for
116 additional one-year terms, if the applicant:

117 (1) Demonstrates that the applicant continues to meet the standards for licensing
118 or registration under this Act and under all relevant provisions of the Banking Code;

119 (2) Pays all applicable fees as prescribed by the Commissioner and all third-party
120 fees; and

121 (3) Submits to the Commissioner a renewal application on the form that the
122 Commissioner requires.

123 Sec. 8. Application fees.

124 (a) When filing an application, each applicant shall pay the applicable fees prescribed by
125 the Commissioner and any third-party fees. Any fees paid in connection with the processing of
126 an application shall be non-refundable.

127 (b) The Commissioner may, from time to time, increase or decrease the fees set forth in
128 this section. The fees shall be fixed at such rates, and computed on such bases and in such
129 manner as may, in the judgment of the Commissioner, be necessary to defray the approximate
130 costs of carrying out the regulatory functions set forth in this act and the Banking Code. These
131 fees shall not be abated or refunded by surrender, suspension, cancellation or revocation of a
132 registration.

133 Sec. 9. NMLS reporting requirements.

134 The Commissioner shall regularly report violations of the Banking Code, as well as
135 enforcement actions and other relevant information, to the NMLS. The reports shall be subject to
136 the provisions of section 6 of this act.

137 Sec. 10. NMLS information challenge process.

138 The Commissioner shall establish a process whereby applicants, licensees and registrants
139 may challenge information entered into the NMLS by the Commissioner.

140 Sec. 11. Authority of Commissioner to issue regulations.

141 The Commissioner may promulgate such regulations as deemed necessary and
142 appropriate to implement the provisions of this act.

143 Sec. 12. Fiscal impact statement.

144 The Council adopts the fiscal impact statement of the Budget Director/Chief Financial
145 Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia
146 Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code §1-
147 206.02(c)(3)).

148 Sec. 13. Effective date.

149 This Act shall take effect following approval by the Mayor (or in the event of a veto by
150 the Mayor, action by the Council to override the veto), and shall remain in effect for no longer
151 than 90 days, as provided for emergency acts of the Council of the District of Columbia in
152 section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87
153 Stat. 788; D.C. Official Code §1-204.12(a)).