

Mortgage Regulation Act

CHAPTER 11 OF THE ACTS OF 2012

as amended by

2015, c. 30, s. 151; 2017, c. 9, ss. 35-38; 2018, c. 43, s. 25



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Halifax

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CHAPTER 11 OF THE ACTS OF 2012
amended 2015, c. 30, s. 151; 2017, c. 9, ss. 35-38; 2018, c. 43, s. 25

**An Act Respecting the Licensing and Qualifications of,
and Practice Standards for, Mortgage Lenders,
Mortgage Brokerages, Mortgage Brokers, Associate
Mortgage Brokers and Mortgage Administrators**

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NOVEMBER 1, 2021

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Short title

- 1** This Act may be cited as the *Mortgage Regulation Act*. 2012, c. 11, s. 1.

Interpretation

- 2 (1)** In this Act,
- (a) “associate mortgage broker” means an individual who acts as a mortgage broker on behalf of a mortgage brokerage and under the supervision of a designated mortgage broker, as an employee or otherwise;
 - (b) “borrower” includes a prospective borrower;
 - (c) “Court” means the Supreme Court of Nova Scotia;
 - (d) “Deputy Registrar” means an individual appointed by the Minister as Deputy Registrar of Mortgage Regulation under this Act;
 - (e) “employee” includes an agent and a contract employee;
 - (f) “financial institution” means a bank or authorized foreign bank within the meaning of section 2 of the *Bank Act* (Canada), a credit union to which the *Credit Union Act* applies, or a corporation registered under the *Trust and Loan Companies Act*;
 - (g) “lawyer” has the same meaning as in the *Legal Profession Act*;
 - (h) “licence” means a valid licence issued pursuant to this Act;
 - (i) “licensee” means a person who holds a licence;

(j) “Minister” means the member of the Executive Council charged by Governor in Council with the administration of this Act;

(k) “mortgage” means any charge on real property or on real and personal property for securing money or money’s worth;

(l) “mortgage administrator” means a person who, on behalf of an investor, engages in one or more of the following activities:

(i) receiving mortgage payments made by a borrower and remitting those payments to the investor,

(ii) monitoring the performance of a borrower with respect to the borrower’s obligations under the mortgage,

(iii) indicating, by advertisement, notice or sign, that the person is a mortgage administrator,

(iv) undertaking any other prescribed activity;

(m) “mortgage broker” means a person who

(i) functions for a fee as an intermediary between a borrower and a lender in securing a mortgage from a lender,

(ii) by advertisement, notice or sign, indicates that the person is a mortgage broker, or

(iii) undertakes any other prescribed activity;

(n) “mortgage brokerage” means a corporation, partnership or sole proprietorship that engages or employs mortgage brokers or associate mortgage brokers to carry on the business of brokering mortgages;

(o) “mortgage lender” means a person who

(i) as a business or in the course of business extends credit secured by real property, and includes the person’s agent or assignees, or

(ii) by advertisement, notice or sign, indicates that the person is a mortgage lender;

(p) “person” includes a partnership;

(q) “prescribed” means prescribed by the regulations;

(r) “Registrar” means the person appointed by the Minister as Registrar of Mortgage Regulation under this Act;

(s) “trust money” means any money received by a mortgage brokerage or a mortgage administrator, but does not include money that is clearly received as payment to the mortgage brokerage or mortgage administrator for fees or other remuneration earned by the mortgage brokerage or mortgage administrator, as the case may be;

(t) “trust property” means

(i) trust money, and

(ii) a mortgage held in the name of a mortgage administrator, but only if another person

(A) holds an interest in that mortgage, or

(B) is entitled to share in the proceeds of that mortgage.

(2) For the purpose of this Act, a person is considered to be carrying on business in the Province if

(a) the person solicits, provides, promotes, advertises, markets, sells or distributes any products or services by any means that cause communication from the person or the person's agents or representatives to reach a person in the Province;

(b) the person has a resident agent or representative or maintains an office or place of business in the Province;

(c) the person holds himself or herself out as carrying on business in the Province; or

(d) the person otherwise carries on business in the Province. 2012, c. 11, s. 2.

Act does not apply

3 (1) This Act does not apply to a person or class of persons exempted by the regulations.

(2) An exemption from the requirement to be licensed created by the regulations may be limited so as to allow the persons or classes of persons exempted to engage, without being licensed, only in prescribed types of transactions. 2012, c. 11, s. 3.

Registrar

4 (1) The Minister shall, in accordance with the *Civil Service Act*, appoint a person to be the Registrar of Mortgage Regulation.

(2) The Registrar is responsible to the Minister for the administration of this Act and the regulations. 2012, c. 11, s. 4.

Deputy Registrar

5 (1) The Minister shall, in accordance with the *Civil Service Act*, appoint a person to be a Deputy Registrar of Mortgage Regulation.

(2) The Minister may, in accordance with the *Civil Service Act*, appoint such additional Deputy Registrars as may be required to assist the Registrar in the performance of the Registrar's duties.

(3) A Deputy Registrar appointed under subsection (1) or (2) may perform any of the duties and exercise any of the powers of the Registrar as directed by the Registrar and shall perform such other duties as directed by the Minister. 2012, c. 11, s. 5.

Experts

6 With the permission of the Minister, the Registrar may engage accountants, actuaries and other professionally or technically qualified persons to assist the Registrar in the administration and enforcement of this Act and the regulations. 2012, c. 11, s. 6.

Registers

7 (1) The Registrar shall create and maintain a public register or registers of mortgage lenders, mortgage brokerages, mortgage brokers, associate mortgage brokers and mortgage administrators.

(2) The register or registers referred to in subsection (1) must contain the prescribed information.

(3) Unless restricted by the regulations, a person may examine or make a copy of the contents of any register referred to in subsection (1). 2012, c. 11, s. 7.

MORTGAGE TERMS AND CONDITIONS**Prepayment**

8 (1) For the purpose of this Section, “prepayment” means the prepayment in full or in part of the outstanding indebtedness secured by the mortgage before the completion of the term.

(2) Every mortgage entered into or renewed on or after June 30, 1985, must state whether the mortgage may be prepaid in full or in part and, where the mortgage may be prepaid, the mortgage must state the terms of prepayment.

(3) Where a mortgage is silent with respect to prepayment, it may be prepaid without penalty at any time. 2012, c. 11, s. 8.

Right to assignment

9 Notwithstanding any stipulation to the contrary, where a mortgagor is entitled to redeem the mortgage or where the mortgagee demands payment of the mortgage by the mortgagor, the mortgagor, upon payment of any balance outstanding in respect of the mortgage, may require the mortgagee, instead of giving a release of mortgage, to assign the mortgage to such third person as the mortgagor directs, and the mortgagee is bound to assign the mortgage accordingly. 2012, c. 11, s. 9.

Effect of failure to comply

10 Failure to comply with the provisions of this Act does not affect the validity of a charge on real property secured by a mortgage. 2012, c. 11, s. 10.

Prescribed terms and conditions

11 Every mortgage is subject to the prescribed terms and conditions. 2012, c. 11, s. 11.

LICENSING

Licences

12 (1) The following classes of licence may be issued by the Registrar:

- (a) mortgage lender;
- (b) mortgage brokerage;
- (c) mortgage broker;
- (d) associate mortgage broker;
- (e) mortgage administrator.

(2) Every mortgage lender, mortgage brokerage, mortgage broker, associate mortgage broker and mortgage administrator carrying on business in the Province must hold a valid licence under this Act unless exempted from the requirement to have such a licence. 2012, c. 11, s. 12.

Eligibility

13 Only an individual is eligible to apply for a mortgage broker licence or associate mortgage broker licence. 2012, c. 11, s. 13.

Application for licence

14 (1) An application for a licence to carry on business in the Province under this Act as a mortgage lender, mortgage brokerage, mortgage broker, associate mortgage broker or mortgage administrator must be made to the Registrar, in the form provided by the Registrar.

(2) Upon receipt of an application for a licence or the renewal of a licence and upon payment of the prescribed fee, the Registrar shall issue a licence to the applicant or renew the applicant's licence if the Registrar is satisfied that the applicant satisfies all the requirements of this Act and the regulations respecting licensing.

(3) Where the Registrar is not satisfied that an applicant satisfies all the requirements of this Act and the regulations respecting licensing or where the Registrar is of the opinion that it is not in the public interest to issue a licence to the applicant or renew the applicant's licence, the Registrar may, subject to Section 24, refuse to issue the licence to the applicant or renew the applicant's licence. 2012, c. 11, s. 14.

Effect of licence

15 (1) A mortgage brokerage licence authorizes the licensee to engage or employ mortgage brokers.

(2) A mortgage broker licence authorizes the licensee to broker mortgages on behalf of the mortgage brokerage named on the licence.

(3) An associate mortgage broker licence authorizes the licensee to broker mortgages on behalf of the mortgage broker named on the licence while acting under the supervision of a licensed mortgage broker.

- (4) A mortgage administrator licence authorizes the licensee to
- (a) carry on the business of administering mortgages; and
 - (b) receive and hold trust property in the course of that business.

(5) A mortgage lender licence authorizes the licensee to carry on the business of lending money on the security of mortgages. 2012, c. 11, s. 15.

Licence terms and conditions

16 (1) Subject to Section 24, at the time a licence is issued, renewed or reinstated, the Registrar may attach any terms and conditions to the licence that the Registrar considers necessary.

(2) Subject to Section 24, at any time after a licence is issued, renewed or reinstated, the Registrar may do all or any of the following:

- (a) amend, modify or vary the terms and conditions attached to the licence;
- (b) attach new terms and conditions to the licence;
- (c) repeal the terms and conditions and substitute new terms and conditions in their place.

(3) A licensee shall comply with the terms and conditions attached to the licensee's licence. 2012, c. 11, s. 16.

Suspension or cancellation of licence

17 (1) The Registrar may, in accordance with this Act and the regulations, suspend or cancel a licence

- (a) on any ground on which the Registrar might have refused to issue the licence pursuant to subsection 14(3);
- (b) if a licensee has failed to comply with this Act or the regulations; or
- (c) in accordance with Section 18.

(2) Where the Registrar considers it appropriate to do so, and on receipt of any prescribed reinstatement fee, the Registrar may reinstate a licence that has been suspended. 2012, c. 11, s. 17.

Automatic suspension

18 (1) A licence issued to a mortgage brokerage is automatically suspended if the mortgage brokerage ceases to have at least one mortgage broker authorized to broker mortgages on its behalf.

(2) A licence issued to a mortgage broker or an associate mortgage broker is automatically suspended if

- (a) the mortgage broker or associate mortgage broker ceases to be authorized to act on behalf of the mortgage brokerage named on the licence; or

(b) the mortgage brokerage named on the licence has its licence suspended or cancelled.

(3) In the circumstances referred to in subsections (1) and (2), the Registrar may

(a) reinstate the suspended licence if the prescribed circumstances are met and any prescribed reinstatement fee has been paid; or

(b) cancel the licence if it has not been reinstated within the prescribed period. 2012, c. 11, s. 18.

Licence not transferable or assignable

19 A licence issued or reinstated pursuant to this Act is not transferable or assignable. 2012, c. 11, s. 19.

Request for further information or material

20 (1) At any time, the Registrar may

(a) require an applicant or a licensee to submit to the Registrar such further information or material as the Registrar considers reasonably necessary; and

(b) require verification, by affidavit or otherwise, of any information or material submitted to the Registrar pursuant to clause (a).

(2) An applicant or licensee who receives a request from the Registrar pursuant to subsection (1) shall comply with that request within the period specified by the Registrar. 2012, c. 11, s. 20.

Notice of change of information

21 A licensee shall immediately notify the Registrar in writing of any change to a business address, facsimile number or electronic address provided in an application pursuant to Section 14. 2012, c. 11, s. 21.

Notice of change of circumstances

22 An applicant or licensee shall, within the prescribed period, notify the Registrar in writing of any change of circumstances. 2012, c. 11, s. 22.

No action to enforce payment unless licensed

23 No person shall commence an action or proceeding for a fee, commission or to be otherwise remunerated for services related to mortgage brokering or administering in the Province, unless, at the time the person was providing such services, the person was licensed to do so or was not required to be licensed to do so. 2012, c. 11, s. 23.

Opportunity to be heard

24 (1) In this Section, “action” means

(a) an action that the Registrar may take pursuant to subsection 14(3), Section 16 or clause 17(1)(a) or (b); or

(b) an order that the Registrar may make pursuant to subsection 73(1), 75(2) or 77(1), (2) or (3).

(2) Before taking an action, the Registrar shall give the person who is the subject of the action a written notice

(a) setting out the action proposed to be taken by the Registrar and the grounds that, in the Registrar's opinion, justify the proposed action; and

(b) informing the person of the person's right to make representations to the Registrar respecting why the action should not be taken.

(3) A person to whom a notice is sent pursuant to subsection (2) may, within fifteen days after receiving that notice, advise the Registrar that

(a) the person requests an oral hearing; or

(b) the person wishes to make written representations to the Registrar respecting why the action should not be taken.

(4) A person who requests an oral hearing pursuant to clause (3)(a) shall, within seven days after requesting the hearing, contact the Registrar and arrange a date, time and place for the hearing.

(5) Written representations made pursuant to clause (3)(b) must be received by the Registrar within thirty days after the person receives the notice pursuant to subsection (2).

(6) The Registrar may take the actions stated in the notice without considering any representations of the person if the person fails to

(a) advise the Registrar in accordance with subsection (3);

(b) meet the requirements of subsection (4) or (5) within the required time; or

(c) appear on the date and at the time and place arranged for the hearing without the prior approval of the Registrar.

(7) The Registrar may extend the periods referred to in subsection (3), (4) or (5) if, in the Registrar's opinion, it is appropriate to do so.

(8) Nothing in this Section requires the Registrar to give an oral hearing to any person who has made written representations in accordance with this Section.

(9) Notwithstanding subsection (2), where the Registrar considers it necessary and in the public interest to take immediate action, the Registrar may immediately do any of the things described in Section 16, clauses 17(1)(a) or (b) or subsection 75(2) without giving the person an opportunity to be heard, but the Registrar shall give the person an opportunity to make written representations or attend a hearing before the Registrar within fifteen days after the date on which the Registrar takes the action.

- (10) Upon holding a hearing or receiving a person's written representations pursuant to this Section, the Registrar shall, within a reasonable period
- (a) consider the submissions and make a decision;
 - (b) notify the person, in writing, of the Registrar's decision;
 - (c) provide written reasons for the Registrar's decision; and
 - (d) provide the person with information respecting the right of appeal pursuant to Section 78. 2012, c. 11, s. 24.

MORTGAGE LENDERS

Compliance officer

25 (1) Every mortgage lender shall designate an individual who satisfies the prescribed criteria to act as a compliance officer.

- (2) A compliance officer shall
- (a) act as a liaison or contact person with the Registrar at all times; and
 - (b) ensure that the mortgage lender is acting at all times in compliance with this Act and the regulations. 2012, c. 11, s. 25; 2017, c. 9, s. 35.

Duty to ensure compliance

26 Every mortgage lender shall ensure that every employee and agent authorized to act on the mortgage lender's behalf complies with all applicable requirements established pursuant to this Act. 2012, c. 11, s. 26.

Duty to provide prescribed information

27 Every mortgage lender shall provide to a borrower, within the prescribed period, the prescribed information in the prescribed manner. 2012, c. 11, s. 27.

BROKERING MORTGAGES

Principal broker

28 (1) Every mortgage brokerage shall designate one individual who

- (a) has a mortgage broker licence; and
- (b) satisfies any other prescribed criteria,

to act as a principal broker.

- (2) A principal broker shall
- (a) designate a mortgage broker to act as a supervisor for each associate mortgage broker authorized to act on behalf of the mortgage brokerage;

(b) ensure that no associate mortgage broker brokers mortgages except under the supervision of a mortgage broker designated pursuant to clause (a);

(c) ensure that the mortgage brokerage is acting at all times in compliance with this Section and Sections 29 to 33; and

(d) exercise any other prescribed powers and perform any other prescribed duties. 2012, c. 11, s. 28.

Prohibitions re brokering mortgages

29 No mortgage brokerage shall

(a) authorize or allow an unlicensed individual, or an individual whose licence is under suspension, to broker mortgages on the mortgage brokerage's behalf; or

(b) authorize or allow a mortgage broker or associate mortgage broker to act on the mortgage brokerage's behalf if the mortgage broker or associate mortgage broker has another mortgage brokerage named on his or her licence. 2012, c. 11, s. 29.

Duty to ensure compliance

30 Every mortgage brokerage shall ensure that every mortgage broker and associate mortgage broker authorized to act on the mortgage brokerage's behalf complies with all applicable requirements established pursuant to this Act. 2012, c. 11, s. 30.

Duty to act in borrower's best interests

31 Subject to Section 33, every mortgage brokerage shall act in the best interests of the borrower. 2012, c. 11, s. 31.

Duties owed to borrower

32 (1) Every mortgage brokerage required to act in the best interests of a borrower pursuant to Section 31 shall

(a) provide to the borrower, within the prescribed period, the prescribed information, in the prescribed manner;

(b) determine the mortgage loan that is most suitable for the borrower in accordance with the prescribed criteria;

(c) subject to subsection (2), provide to the borrower, in the prescribed manner, a written assessment of the determination made pursuant to clause (b) that contains the prescribed information at least one business day before the earlier of

(i) the day on which the borrower commits to entering into the mortgage, and

(ii) the day on which the borrower makes any payment in connection with the mortgage, including, but not limited to, any application fee paid by the borrower in connection with the mortgage; and

(d) obtain a written acknowledgement from the borrower indicating that the written assessment referred to in clause (c) was provided to the borrower.

(2) The borrower may, having received legal advice, waive the requirement that the written assessment required to be provided pursuant to clause (1)(c) be provided at least one business day before the earlier of days referred to in subclauses (1)(c)(i) and (ii). 2012, c. 11, s. 32; 2017, c. 9, s. 36.

Duty to act in private investor's best interests

33 (1) A mortgage brokerage shall act in the best interests of the private investor if the mortgage brokerage

(a) solicits the private investor to make an investment in a mortgage;

(b) negotiates or arranges an investment in a mortgage by the private investor; or

(c) provides advice to the private investor with respect to the appropriateness of making a particular investment in a mortgage.

(2) A mortgage brokerage that is required to act in the best interests of a private investor pursuant to subsection (1) shall ensure that the borrower is represented by another mortgage brokerage. 2012, c. 11, s. 33.

Restrictions on mortgage brokers and associate mortgage brokers

34 (1) No mortgage broker shall act on behalf of a mortgage brokerage other than the mortgage brokerage named on the mortgage broker's licence.

(2) No associate mortgage broker shall act on behalf of a mortgage brokerage other than the mortgage brokerage named in the associate mortgage broker's licence. 2012, c. 11, s. 34.

MORTGAGE ADMINISTRATORS

Compliance officer

35 (1) Every licensed mortgage administrator shall designate one individual who satisfies the prescribed criteria to act as a compliance officer.

(2) A compliance officer shall

(a) act as a liaison or contact person with the Registrar at all times;

(b) ensure that the mortgage administrator is acting at all times in compliance with this Act and the regulations. 2012, c. 11, s. 35; 2017, c. 9, s. 37.

Duty to ensure compliance

36 Every mortgage administrator shall ensure that every employee and agent authorized to act on the mortgage administrator's behalf complies with all applicable requirements established pursuant to this Act. 2012, c. 11, s. 36.

Duty to provide prescribed information

37 Every mortgage administrator shall provide to a lender and a borrower, within the prescribed period, the prescribed information in the prescribed manner. 2012, c. 11, s. 37.

Written agreement required

38 No mortgage administrator shall administer a mortgage on behalf of a private investor unless the mortgage administrator has entered into a written agreement with that private investor that

- (a) includes the prescribed terms and conditions; and
- (b) contains the prescribed information. 2012, c. 11, s. 38.

Duty to act in private investor's best interests

39 Every mortgage administrator that administers a mortgage on behalf of a private investor must act in the best interests of the private investor. 2012, c. 11, s. 39.

Disclosure to private investor

40 (1) Before entering into an agreement with a private investor in accordance with Section 38, a mortgage administrator shall provide the private investor with a statement in the prescribed manner disclosing the prescribed information.

(2) Where, at any time, there is a change to any of the information required to be disclosed pursuant to subsection (1), the mortgage administrator shall provide the private investor with an additional statement in accordance with subsection (1) within the prescribed period. 2012, c. 11, s. 40.

Copy of agreement to be provided

41 Where a mortgage administrator and a private investor enter into an agreement in accordance with Section 38, the mortgage administrator shall provide a copy of the agreement to the private investor within ten days. 2012, c. 11, s. 41.

REGULATION OF MORTGAGE LENDERS,
MORTGAGE BROKERAGES, MORTGAGE BROKERS,
ASSOCIATE MORTGAGE BROKERS
AND MORTGAGE ADMINISTRATORS

Duty to maintain records

42 (1) In this Section, "record" means a writing, or any information in a form that can be converted into a writing, by a machine or a device, and includes information

- (i) on microfilm,
- (ii) in electronic, mechanical or magnetic storage, or
- (iii) in electronic data signals,

respecting the finances or business of a mortgage lender, mortgage brokerage, mortgage broker, associate mortgage broker or mortgage administrator.

(2) Every mortgage lender, mortgage brokerage and mortgage administrator shall ensure that the following records are kept:

- (a) complete and accurate financial records of the licensee's operations in the Province that include the prescribed information;
- (b) complete and accurate records respecting all the information to be disclosed and documentation to be provided to borrowers or private investors pursuant to this Act;
- (c) complete and accurate records respecting all written agreements that the mortgage brokerage or mortgage administrator has entered into;
- (d) in the case of a mortgage administrator, the records required pursuant to Sections 47 and 48;
- (e) any other prescribed records.

(3) Every mortgage lender, mortgage brokerage and mortgage administrator shall

- (a) retain the records referred to in this Section
 - (i) for the prescribed period,
 - (ii) in the prescribed manner, and
 - (iii) at the prescribed location; and
- (b) make available for inspection by the Registrar the records referred to in this Section during regular business hours
 - (i) at the place of business of the mortgage lender, mortgage brokerage or mortgage administrator in the Province, or
 - (ii) at any other location approved by the Registrar.

2012, c. 11, s. 42.

Prohibition against unfair or deceptive act or practice

43 No licensee shall engage in any unfair or deceptive act or practice with respect to a transaction or proposed transaction involving a mortgage. 2012, c. 11, s. 43.

Prohibition against guarantee of investment in mortgage

44 No licensee shall directly or indirectly offer any guarantee with respect to an investment in a mortgage. 2012, c. 11, s. 44.

Prescribed requirements and prohibitions

45 (1) Every licensee shall comply with any other prescribed requirements.

(2) No licensee shall contravene any other prescribed prohibitions. 2012, c. 11, s. 45.

TRUST PROPERTY

“record” defined

46 In Sections 47 and 48, “record” has the same meaning as in subsection 42(1). 2012, c. 11, s. 46.

Prohibition against receiving or holding trust property

47 No licensee may receive or hold trust property unless it is licensed to carry on business as a mortgage administrator under this Act. 2012, c. 11, s. 47.

Requirements re records

48 In addition to the requirements set out in Section 42, every mortgage administrator shall

- (a) ensure that the records that are kept distinguish between
 - (i) money and assets pertaining to the operation of the business, and
 - (ii) money and mortgages received or held in trust by the business;
- (b) ensure that records are kept showing, for each mortgage administered by the licensee, particulars of all transactions connected with that mortgage;
- (c) ensure that any other prescribed records are
 - (i) kept, reviewed and reconciled in the prescribed manner, and
 - (ii) retained in accordance with subsection 42(3). 2012, c. 11, s. 48.

Records relating to trust property

49 Unless otherwise authorized in writing by the Registrar, every mortgage administrator shall keep records of all transactions involving trust property received or held on behalf of residents of the Province separate and apart from records of those transactions relating to trust property received or held on behalf of residents of other jurisdictions. 2012, c. 11, s. 49.

Trust property to be kept separate

50 Every mortgage administrator that receives or holds trust property shall keep all trust property separate and apart from all other money and property belonging to the licensee or its employees. 2012, c. 11, s. 50.

Receipt of trust money

- 51** Every mortgage administrator receiving trust money shall
- (a) deposit the money into a trust account that is
 - (i) held with a prescribed financial institution in the Province,
 - (ii) held in the name of the licensee as shown on its licence,

- (iii) designated as a trust account by the financial institution,
- within the prescribed period; and
- (b) comply with Sections 47 to 50, this Section and Sections 52 to 53 and the regulations made pursuant to those Sections. 2012, c. 11, s. 51.

Administration of trust money

52 Where a mortgage administrator receives trust money in the form of periodic payments with respect to a mortgage administered by the mortgage administrator on behalf of a private investor, the mortgage administrator

- (a) shall pay that money to the private investor within thirty days after receiving it; and
- (b) shall not pay any interest earned on that money to the private investor. 2012, c. 11, s. 52.

Administration of trust account

53 (1) No mortgage administrator shall

- (a) without the prior approval of the Registrar
 - (i) open a new trust account,
 - (ii) move an existing trust account,
 - (iii) close a trust account, or
 - (iv) open or maintain more than one trust account with respect to trust money held on behalf of residents of the Province;
- (b) withdraw any money from a trust account that would result in a negative balance in an individual account in its trust ledger;
- (c) withdraw any money from a trust account except in accordance with the trust agreement relating to that money;
- (d) authorize a financial institution to deduct from a trust account any service charge or any other charge; or
- (e) pay any personal or general office expense from a trust account.

(2) Every mortgage administrator shall keep trust money held on behalf of residents of the Province separate and apart from any trust money held on behalf of residents of other jurisdictions. 2012, c. 11, s. 53.

ANNUAL FILING REQUIREMENTS**Annual return**

54 Every licensee shall provide the Registrar with an annual return within the prescribed period that contains the prescribed information. 2012, c. 11, s. 54.

Financial statement

55 In each fiscal year, every mortgage administrator shall provide the Registrar with a financial statement for the preceding fiscal year that

- (a) contains and is accompanied by the prescribed information and documentation; and
- (b) is delivered to the Registrar within the prescribed period after the end of the fiscal year to which it relates. 2012, c. 11, s. 55.

Interim financial statements

56 Every mortgage administrator licensed pursuant to this Act shall, upon request, provide the Registrar with interim financial statements

- (a) for the period specified by the Registrar;
 - (b) containing any information the Registrar considers necessary;
- and
- (c) within the period specified by the Registrar. 2012, c. 11, s. 56.

Financial reporting standards

57 (1) Subject to subsection (2),

(a) every financial statement prepared for the purpose of this Act or the regulations must be prepared in accordance with generally accepted accounting principles as set out in the CPA Canada Handbook, as amended from time to time; and

(b) every auditor who makes an examination and prepares a report for the purpose of this Act or the regulations must conduct the examination and prepare the report in accordance with generally accepted auditing standards as set out in the CPA Canada Handbook, as amended from time to time.

(2) Any modification established by the Registrar to the principles, standards or practices referred to in clauses (1)(a) and (b) must be taken into account in the preparation of the documents referred to in clauses (1)(a) and (b). 2012, c. 11, s. 57; 2015, c. 30, s. 151.

ADVERTISING AND COMMUNICATIONS**Advertising**

58 (1) No licensee shall advertise, or otherwise indicate that the licensee is a mortgage lender, mortgage brokerage, mortgage broker, associate mortgage broker or mortgage administrator, using a name other than the name set out on the licensee's licence.

(2) No mortgage lender, mortgage brokerage or mortgage administrator shall advertise the business or any products or services offered by that business unless the advertisement

- (a) shows the name of the business as set out on its licence; and
- (b) contains the prescribed information.

(3) No mortgage broker or associate mortgage broker shall advertise any product or service offered by the mortgage broker or associate mortgage broker unless the advertisement

- (a) indicates the name of the mortgage brokerage for which the broker or associate mortgage broker is authorized to act; and
- (b) contains the prescribed information. 2012, c. 11, s. 58.

False or misleading advertisement

59 (1) No licensee shall make any false, misleading or deceptive statements in any advertisement, circular, pamphlet or similar material.

(2) Where, in the opinion of the Registrar, a licensee has made a false, misleading or deceptive statement in any advertisement, circular, pamphlet or similar material, the Registrar may order that licensee to stop using that material immediately.

(3) No licensee shall fail to comply with an order of the Registrar issued pursuant to subsection (2). 2012, c. 11, s. 59.

Information to be disclosed in correspondence

60 (1) Subject to subsection (2), every licensee shall disclose the prescribed information in all correspondence and other written material prepared or used in the course of the business.

(2) Subsection (1) does not apply to an advertisement. 2012, c. 11, s. 60.

POWERS OF THE REGISTRAR

Proceedings before Registrar

61 (1) In this Section, “record” includes any information that is recorded or stored in any medium or by means of any device, including a computer or electronic media.

(2) For the purpose of exercising the Registrar’s functions under this Act, the Registrar has all the powers, privileges and immunities of a commissioner appointed under the *Public Inquiries Act*.

(3) The Registrar may issue a summons if the Registrar considers it necessary in order to determine whether a person is complying with a requirement established pursuant to this Act.

(4) Where a person summoned as a witness pursuant to subsection (3) fails or refuses to attend, answer questions or produce records or property in that person’s custody or possession, the person is liable, on application to the Court by the Registrar, to be committed for contempt by the Court in the same manner as if that person were in breach of an order or judgment of the Court.

(5) The Registrar may accept any evidence that is relevant to the inquiry or investigation and is not bound by the rules of law respecting evidence applicable to judicial proceedings.

(6) The Registrar may prescribe the rules, forms and procedures to be followed in proceedings before the Registrar. 2012, c. 11, s. 61.

Provision of information or materials

62 (1) At any time, the Registrar may direct any person to provide the Registrar with any information or material the Registrar reasonably requires for the purpose of this Act and the regulations.

(2) The Registrar may determine a reasonable period within which a person shall provide the information or materials directed to be provided pursuant to subsection (1). 2012, c. 11, s. 62.

Right to receive notice

63 (1) Unless exempted from doing so in the regulations, every licensee and former licensee shall immediately inform the Registrar in writing of any action or proceeding brought in respect of the business or activities that the licensee is, or was, or the former licensee was, authorized to carry on under its licence.

(2) The Registrar is entitled to appear and to be heard, in person or by counsel, in any action or proceeding referred to in subsection (1).

(3) A licensee or former licensee shall provide the Registrar with a copy of any order or judgment of a court with respect to an action or proceeding referred to in subsection (1) as soon as is practicable after the order or judgment is made. 2012, c. 11, s. 63.

Publication of information

64 Notwithstanding the *Freedom of Information and Protection of Privacy Act*, the Registrar may authorize the publication of, or make available to the public and to officials in other jurisdictions, the following information:

- (a) any information appearing on a licence;
- (b) the address of the place of business and mailing address and address for service of a licensee;
- (c) the name of the principal broker designated by a mortgage brokerage licensed pursuant to this Act;
- (d) any other information referred to in Section 62 if, in the opinion of the Registrar, it is in the public interest to do so;
- (e) any decision or order of the Registrar, including the Registrar's written reasons for making the decision or order if, in the Registrar's opinion, it is in the public interest to do so. 2012, c. 11, s. 64.

Additional powers

65 The Registrar may

- (a) conduct studies, inquiries and surveys for the purpose of obtaining information as to what persons are conducting any activities for which persons require licences under this Act, concerning their methods and

practices of carrying on business, and to keep informed of developments and changes in those methods and practices;

(b) consult with and co-operate with licensees and other interested persons and organizations to assist in the attainment of the purpose of this Act;

(c) establish *ad hoc* advisory committees from time to time to inquire into or investigate any matter relating to the administration of this Act or any matter falling within the provisions of this Act or the regulations and to assist or advise the Registrar with respect to any matter referred to a committee by the Registrar;

(d) consult with any other government or regulatory authority for the purpose of administering or enforcing this Act. 2012, c. 11, s. 65.

INSPECTIONS, INVESTIGATIONS AND ENFORCEMENT

Interpretation of Sections 67 to 77

66 In Sections 67 to 77,

(a) “Act” includes the regulations and any orders or directions of the Registrar issued pursuant to this Act;

(b) “property” includes computer software;

(c) “record” has the same meaning as in subsection 61(1). 2012, c. 11, s. 66.

Inspections

67 (1) The Registrar may make inquiries and conduct examinations of the business and activities of each licensee to ensure that the licensee is complying with the requirements established pursuant to this Act.

(2) Where, in the Registrar’s opinion, a person who is not a licensee is or was required to have a licence, the Registrar may make such inquiries and conduct such examinations of the business and activities of the person as the Registrar considers appropriate in the circumstances.

(3) Subject to Section 2B of the *Summary Proceedings Act*, the Registrar may do all or any of the following things in the course of making an inquiry or conducting an examination:

(a) enter at any reasonable time and inspect any commercial premises used by a person required to be licensed pursuant to this Act;

(b) enter at any reasonable time premises containing any records or property required to be kept pursuant to this Act or related to the administration of this Act and inspect those records or that property;

(c) require the person and any agent, representative, partner, director, officer or employee of the person to

(i) answer any questions that may be relevant to the inspection, and

(ii) provide the Registrar with all reasonable assistance, including using any computer hardware or software or any other data storage, processing or retrieval device or system to produce information;

(d) in order to produce information, use any computer hardware or software or any other data storage, processing or retrieval device or system that is used in connection with the business or activities of any person required to be licensed pursuant to this Act;

(e) remove for examination and copy anything that may be relevant to the inquiry or examination, including removing any computer hardware or software or any other data storage, processing or retrieval device or system in order to produce information.

(4) The Registrar may serve a written demand on any person requiring that person to produce any records or property

- (a) required to be kept pursuant to this Act; or
- (b) related to the administration of this Act.

(5) No person on whom a written demand is served pursuant to this Section shall fail to produce the records or property referred to in the written demand within the period specified in the written demand.

(6) Where the Registrar demands any records or property pursuant to this Section, the Registrar may examine the records or property and make copies of the records with reasonable dispatch and promptly return the originals of the records to the person who produced them.

(7) Where the Registrar requires a person to answer questions, to produce a record or other property or to provide assistance in accordance with this Section, the person shall do so in the manner and within the period specified by the Registrar.

(8) The Registrar shall

- (a) give a receipt for anything that the Registrar removes for examination and copying;
- (b) promptly return anything removed pursuant to this Section to the place from which it was removed or any other place agreed to by the Registrar and the person who furnished it; and
- (c) take all reasonable steps to ensure that, where a record is taken, a copy of the record is left at the premises to allow business to be carried on. 2012, c. 11, s. 67.

Travel costs

68 (1) Where the Registrar or any person engaged, appointed or retained by the Registrar for the purpose of assisting the Registrar in carrying out an inspection or investigation is required to travel outside the Province to conduct an inspection or investigation of a person, the Registrar may direct the person being

inspected or investigated to pay all of the reasonable costs associated with the inspection or investigation.

(2) No person shall fail to pay an amount that the person is directed to pay pursuant to subsection (1). 2012, c. 11, s. 68.

Offences and penalties

69 (1) Every person who contravenes this Act or the regulations or who fails to comply with an order or direction given by the Registrar pursuant to this Act is guilty of an offence.

(2) Every person who makes a false or misleading statement in any application or in any proceeding or in response to any inspection or investigation pursuant to this Act is guilty of an offence.

(3) Every person who is guilty of an offence is liable on summary conviction

(a) in the case of an individual, to a fine of not more than five hundred thousand dollars or to imprisonment for a term of not more than one year, or to both a fine and imprisonment; or

(b) in the case of a corporation, to a fine of not more than one million dollars.

(4) Where a corporation contravenes this Act or the regulations, a director or officer of the corporation who authorized, allowed or acquiesced in the contravention is also guilty of an offence and liable on summary conviction to the penalties set out in subsection (3), regardless of whether the corporation has been prosecuted or convicted. 2012, c. 11, s. 69.

Compliance orders and restitution

70 Where a court convicts a person of an offence, the court may, in addition to any penalty it may impose, do all or any of the following:

(a) order that person to comply with the provision of this Act with respect to which that person was convicted;

(b) where the court is satisfied that the convicted person has acquired any monetary benefits or that monetary benefits have accrued to the convicted person or to another person associated with or related to the convicted person,

(i) order the convicted person to pay an additional fine in an amount equal to the amount of the monetary benefits,

(ii) order the convicted person to pay compensation or make restitution to any person to whom the monetary benefits should be paid. 2012, c. 11, s. 70.

Offences re hindering inspection, investigation or proceeding

71 (1) No person shall, or shall attempt to, destroy, alter, conceal or withhold any information, property or thing reasonably required for an inspection, investigation or proceeding pursuant to this Act.

(2) No person shall hinder or interfere with the Registrar, or any employee, appointee or agent of the Registrar, in the performance of the Registrar's powers, functions and duties pursuant to this Act.

(3) A person contravenes subsection (1) if the person knows or ought reasonably to know that an inspection, investigation or proceeding is to be conducted and takes any action referred to in subsection (1) before the inspection, investigation or proceeding. 2012, c. 11, s. 71.

Limitation on prosecution

72 (1) A prosecution for an offence under this Act or the regulations may not be commenced more than three years after the later of

- (a) the date on which the offence was committed; and
- (b) the date on which evidence of the offence first came to the attention of the Registrar.

(2) Where the Registrar imposes an administrative penalty on a person, a prosecution for an offence under this Act for the same contravention must not be brought against the person. 2012, c. 11, s. 72; 2018, c. 43, s. 25.

Administrative penalties

73 (1) Subject to subsection ~~(4)~~[(3)] and Sections 24 and 74, where the Registrar is satisfied that a person has contravened a provision of this Act, the Registrar may make an order imposing all or any of the following penalties:

- (a) in the case of an individual, an administrative penalty of not more than five thousand dollars;
- (b) in the case of a corporation, an administrative penalty of not more than fifty thousand dollars;
- (c) a private or public reprimand;
- (d) a penalty obliging the person to pay the cost of producing material specified by the Registrar to promote education or knowledge in areas related to activities of mortgage lenders, mortgage brokerages, mortgage brokers, associate mortgage brokers or mortgage administrators, provided that the total penalty for the same contravention will not exceed the maximum amount specified in clause (a) or (b), as applicable.

(2) Before the Registrar imposes an administrative penalty on a person, the Registrar shall consider the following:

- (a) previous enforcement actions for contraventions of a similar nature by the person;
- (b) the gravity and magnitude of the contravention;
- (c) the extent of the harm to others resulting from the contravention;
- (d) whether the contravention was repeated or continuous;
- (e) whether the contravention was deliberate;

- (f) any economic benefit derived by the person from the contravention;
- (g) the person's efforts to correct the contravention.

~~(4)~~**(3)** The written notice required to be provided to the person pursuant to subsection 24(2) must, in addition to the requirements set out in that subsection,

- (a) set out the facts and circumstances that, in the Registrar's opinion, render the person liable to a penalty; and
- (b) specify the amount of the penalty that the Registrar considers appropriate in the circumstances.

~~(5)~~**(4)** Upon holding a hearing or receiving a person's written representations pursuant to Section 24, the Registrar shall, in addition to the requirements set out in subsection 24(10), provide a notice to the person who is the subject of the order that sets out a date by which the penalty must be paid in full.

~~(6)~~**(5)** Any penalty imposed pursuant to this Section is a debt due to and recoverable by Her Majesty in right of the Province and may be recovered in any manner authorized by law.

~~(7)~~**(6)** Where the time for filing an appeal of an order of the Registrar made pursuant to this Section has passed and there is no appeal or where an appeal has been dismissed, the order may, for the purpose of enforcement of the order, be registered with the Court and may be enforced in the same manner as a judgment of that Court. 2012, c. 11, s. 73.

Limitations on administrative penalties

74 (1) A penalty must not be assessed by the Registrar more than two years after the date on which the alleged contravention occurred.

(2) A person who has been charged with an offence under this Act shall not be subject to an administrative penalty in respect of the circumstances that gave rise to the charge. 2012, c. 11, s. 74.

Power of Registrar to order compliance

75 (1) The Registrar may issue an order pursuant to subsection (2) if the Registrar is satisfied that it is in the public interest or that the person is not complying with this Act.

(2) Subject to Section 24, in the circumstances referred to in subsection (1), the Registrar may order a person to do all or any of the following:

- (a) cease doing an act or cease failing or neglecting to do an act;
- (b) comply with this Act;[.] 2012, c. 11, s. 75.

Power of Court to order compliance

76 (1) Where the Registrar is of the opinion that a person has failed to comply with this Act, the Registrar may apply to the Court for all or any of the following:

- (a) an order directing the person to comply with this Act or restraining the person from contravening this Act;
- (b) an order directing the directors and officers of a corporation or the partners of a partnership to comply with this Act or restraining the directors and officers or partners from contravening this Act.

(2) On an application pursuant to subsection (1), the Court may make any order that the Court considers necessary. 2012, c. 11, s. 76.

Costs

77 (1) Subject to Section 24, after conducting a proceeding respecting a person, including an inspection or investigation pursuant to this Act, the Registrar may order the person to pay the costs of or related to the proceeding if the Registrar is satisfied that the person whose affairs were the subject of the proceeding has not complied with a provision of this Act.

(2) For the purpose of subsection (1), the costs that the Registrar may order the person to pay include all or any of the following:

- (a) costs incurred with respect to services provided by a person engaged, appointed or retained by the Registrar for the purpose of the proceeding;
- (b) costs of obtaining a warrant;
- (c) costs of matters preliminary to the proceeding;
- (d) costs for time spent by the Registrar, by any members of the public service of the Province employed in the office of the Registrar or by any persons engaged, appointed or retained by the Registrar;
- (e) fees paid to a witness;
- (f) costs of legal services provided to the Registrar.

(3) Where a person is convicted of an offence pursuant to this Act, the Registrar may, subject to Section 24, order the person to pay the costs of any investigation carried out with respect to that offence, including any costs incurred with respect to either or both of the following:

- (a) the provision of services by persons engaged, appointed or retained by the Registrar;
- (b) the appearance of any witnesses.

(4) An order of the Registrar made pursuant to this Section may, for the purpose of enforcement of the order, be registered with the Court and may be enforced in the same manner as a judgment of that Court.

(5) The *Civil Procedure Rules* respecting costs do not apply to costs referred in this Section.

(6) No provision of this Act is to be interpreted as precluding a court from ordering costs payable to the Registrar.

(7) Where costs are awarded to the Registrar in any proceeding, the costs of the Registrar must not be disallowed or reduced because the lawyer representing the Registrar is a member of the public service of the Province. 2012, c. 11, s. 77.

APPEALS

Appeal to Court

78 (1) A decision or order of the Registrar made pursuant to this Act is final.

(2) Any person who is directly affected by an order or decision of the Registrar made pursuant to this Act may appeal the order or decision to the Court only on the ground of an error of law.

(3) An appeal must not be conducted as a trial *de novo*.

(4) An appeal must be made within thirty days after receiving a decision or order of the Registrar.

(5) An appellant shall serve a notice of appeal on the Registrar and any other person who the Court orders to be served. 2012, c. 11, s. 78.

Appeal documents

79 On receipt of a notice of appeal pursuant to subsection 78(5), the Registrar shall file with the Court true copies of

(a) all documents and materials that were before the Registrar when the Registrar made the decision or order;

(b) the Registrar's decision or order; and

(c) the Registrar's written reasons for the decision or order. 2012, c. 11, s. 79.

Decision by Court

80 (1) On hearing an appeal pursuant to Section 78, the Court may

(a) dismiss the appeal;

(b) allow the appeal;

(c) allow the appeal subject to terms and conditions;

(d) vary the decision or order of the Registrar;

(e) refer the matter back to the Registrar for

(i) further consideration, and

(ii) a decision or order; or

(f) make any other order that the Court considers appropriate.

(2) The Court may make any order as to costs on an appeal that the Court considers appropriate. 2012, c. 11, s. 80.

No automatic stay

81 The commencement of an appeal pursuant to Section 78 does not stay the effect of the decision or order appealed from, unless a judge of the Court orders otherwise. 2012, c. 11, s. 81.

GENERAL

Power to review, rescind, amend or vary order

82 (1) Upon the request of any person directly affected by an order of the Registrar or on the Registrar's own initiative, the Registrar may review any order made by the Registrar, and, where the Registrar considers that it would not be prejudicial to the public interest, the Registrar may rescind or amend the order or make additional orders for the purpose of

- (a) correcting the original order;
- (b) ensuring compliance with the original order;
- (c) dealing with any material change in circumstances since the original order was issued; or
- (d) interpreting the original order.

(2) Before rescinding or amending an order or making an additional order pursuant to subsection (1), the Registrar shall serve a written notice on persons directly affected by the original order and on any other persons the Registrar considers interested in the original order. 2012, c. 11, s. 82.

No action lies

83 No action or other proceeding lies, and an action or other proceeding must not be instituted, against

- (a) Her Majesty in right of the Province, the Minister, the Registrar or any member of the public service of the Province employed in the office of the Registrar;
- (b) any representative of the Registrar; or
- (c) any person engaged, appointed or retained by the Registrar to make or conduct any inspection or investigation or to do any other thing pursuant to this Act,

if the person referred to in clause (a), (b) or (c) is acting pursuant to the authority of this Act, for anything in good faith done, caused, allowed or authorized to be done, attempted to be done or omitted to be done pursuant to, or in the exercise or supposed exercise of, any power conferred by this Act or the regulations or in the carrying out, or supposed carrying out, of any function or duty imposed by this Act or the regulations. 2012, c. 11, s. 83.

Registrar and others not compellable witnesses

84 Except in the case of a prosecution respecting a contravention of this Act or the regulations,

- (a) the Registrar or any member of the public service employed in the office of the Registrar;
- (b) any representative of the Registrar; and
- (c) any person engaged, appointed or retained by the Registrar to make or conduct any inspection or investigation or to do any other thing pursuant to this Act,

are not compellable to give evidence in a court or in a proceeding of a judicial nature to which the Registrar is not a party concerning any information obtained by them or that came to their attention in the exercise of the powers or carrying out of the functions or duties of the Registrar pursuant to this Act. 2012, c. 11, s. 84.

Certificate of Registrar as evidence

85 (1) A certificate of the Registrar certifying that

- (a) a person named in the certificate was or was not licensed;
- (b) a licence was issued to a person on a date set out in the certificate;
- (c) the licence of a person was suspended, cancelled or reinstated at a particular time; or
- (d) a licence issued to a person was made subject to terms and conditions,

is admissible in evidence as proof, in the absence of evidence to the contrary, of the facts stated in the certificate without proof of the signature or appointment of the Registrar.

(2) A record certified by the Registrar to be a copy of an original record

- (a) is admissible in evidence without proof of the signature or appointment of the Registrar; and
- (b) has the same probative value as the original record.

2012, c. 11, s. 85.

Evidence of carrying on business without licence

86 Where, in a prosecution or proceeding involving an alleged contravention of this Act, it is alleged that a person carried on business as a mortgage lender, mortgage brokerage, mortgage broker, associate mortgage broker or mortgage administrator without a licence, evidence of the person having engaged in one transaction is *prima facie* evidence that the person is carrying on the business of a mortgage lender, mortgage brokerage, mortgage broker, associate mortgage broker or mortgage administrator, as the case may be. 2012, c. 11, s. 86.

Service

87 (1) Any notice or other document that is required to be served pursuant to this Act or in any proceeding or matter under the jurisdiction of the Registrar may be served

- (a) by personal service made
 - (i) in the case of an individual, on the individual,
 - (ii) in the case of a partnership, on any partner, or
 - (iii) in the case of a corporation, on any officer or director of the corporation;
- (b) by registered mail addressed to the last known address of the person to be served;
- (c) in the case of a notice to the public, or to persons who are too numerous to be served individually, by publishing the notice in any manner that the Registrar may direct; or
- (d) by any other prescribed means.

(2) A notice or document sent by registered mail is deemed to be served on the seventh day following the date of its mailing unless the person to whom it was mailed establishes that, through no fault of his or her own, the person did not receive the notice or document or received it at a later date.

(3) Service of a notice or document to be sent by any other prescribed means is to be proved in the prescribed manner.

(4) A notice or other document required to be served on the Registrar may be served by

- (a) leaving it at the office of the Registrar with any person appearing to have authority to accept the notice or document;
- (b) registered mail addressed to the address of the office of the Registrar; or
- (c) any other prescribed means.

(5) Any person entitled to be served with a notice or a document may at any time waive, in writing, service of the notice or document.

(6) Service of any notice or document may be proved by affidavit or oral evidence of the person claiming to have served it. 2012, c. 11, s. 87.

Registering order

88 (1) To register an order of the Registrar with the Court pursuant to subsection 73(7)[(6)] or 77(4), the Registrar may make a certified copy of the order, upon which is the following endorsement, signed by the Registrar:

Register the within with the Supreme Court of Nova Scotia.

Dated this day of, 20. .

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Registrar of Mortgage Regulation

(2) The Registrar may forward the certified copy referred to in subsection (1) so endorsed, to a prothonotary of the Court who shall, on receipt of the certified copy, enter it as a record and it is thereupon registered with and enforceable in the same manner as a judgment of that Court. 2012, c. 11, s. 88.

Regulations by Governor in Council

89 (1) The Governor in Council may make regulations

(a) prescribing the fees to be paid for the issuance of licences, the reinstatement of licences that have been suspended and any other fees for services in connection with the administration of this Act and the regulations, including prescribing and requiring the payment of annual fees for continuous licences;

(b) authorizing the Registrar to waive all or part of the prescribed fees and prescribing the circumstances in which the Registrar may do so;

(c) prescribing any matter or thing required or authorized by this Act to be prescribed in the regulations;

(d) defining any word or expression used but not defined in this Act;

(e) respecting any matter or thing the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2012, c. 11, s. 89.

Regulations by Minister

90 (1) The Minister may make regulations

(a) prescribing activities for the purpose of the definition of “mortgage administrator”;

(b) prescribing activities for the purpose of the definition of “mortgage broker”;

(c) exempting persons or classes of persons from any or all provisions, in whole or in part, of this Act and the regulations and prescribing the type of transactions to which such persons or classes of persons are limited to engaging in without being licensed;

(d) prescribing the information to be contained in registers created and maintained by the Registrar;

(e) prescribing restrictions on the examination or copying of the contents of a register;

(f) prescribing mortgage terms and conditions;

(g) exempting a mortgage lender, mortgage brokerage, mortgage broker, associate mortgage broker or mortgage administrator carrying on business in the Province from the requirement that the person hold a valid licence under this Act;

(h) prescribing requirements that are to be met and criteria that are to be satisfied respecting applicants for licences, including establishing, with respect to persons or categories of persons to whom the Registrar has issued a licence, standards of conduct, competence and proficiency and standards of training and education, including additional and mandatory continuing training and education requirements and authorizing the Registrar to determine if the requirements have been met and criteria satisfied;

(i) respecting errors and omissions insurance, including prescribing the minimum amount of errors and omissions insurance and the scope of that insurance that an applicant is required to obtain, requiring that the errors and omissions insurance be maintained at all times by a licensee, and requiring proof of that insurance at the time of licensing, or at any time thereafter;

(j) respecting capital requirements, including prescribing the manner of determining the amount of capital that an applicant or licensee is required to maintain, including prescribing

(i) the various classes of capital,

(ii) the amounts of each class of capital that an applicant or licensee is required to have for various purposes, and

(iii) the manner of determining the amount of each class of capital;

(k) prescribing the circumstances that are to be met before the Registrar may reinstate a licence pursuant to Section 18, including prescribing the period within which a licence may be reinstated;

(l) prescribing changes in circumstances for the purpose of Section 22;

(m) prescribing the criteria that are to be met by a mortgage lender's compliance officer;

(n) prescribing the information to be provided to a borrower by a mortgage lender, including prescribing the manner in which and time within which that information is to be provided;

(o) prescribing the criteria that are to be met by a principal broker and prescribing the powers and duties of a principal broker;

(p) for the purpose of Section 32, prescribing

(i) the information that is to be provided to a borrower, including prescribing the manner in which and the time within which that information is to be provided,

(ii) the criteria in accordance with which a mortgage brokerage is to determine the mortgage loan that is most suitable for a borrower, and

(iii) the information that is to be contained in the written assessment, including prescribing the manner in which the written assessment is to be provided to the borrower;

(q) prescribing the criteria that is to be met by a mortgage administrator's compliance officer;

(r) prescribing the information to be provided to a lender and a borrower by a mortgage administrator, including prescribing the manner in which and time within which that information is to be provided;

(s) prescribing terms and conditions and other information that are required to be included in an agreement made between a private investor and a mortgage administrator;

(t) prescribing the information to be provided to a private investor by a mortgage administrator, mortgage brokerage or mortgage lender, including prescribing the manner in which that information is to be provided and the time within which any change to that information is to be provided;

(u) prescribing information to be included in financial and other records that are required to be maintained by a licensee;

(v) prescribing the time for, manner in and location at which records are to be maintained by a licensee;

(w) prescribing any other

(i) requirements with which a licensee is required to comply, or

(ii) prohibitions that a licensee is required not to contravene,

including prescribing various classes of licensees or activities and prescribing the requirements or prohibitions for those classes of licensees or activities;

(x) prescribing records that are required to be kept with respect to transactions relating to trust property and respecting the process for making, reviewing and reconciling those records, including requiring that a person or class of persons conduct the review and reconciliation of those records at prescribed intervals;

(y) prescribing

(i) the period within which a licensee is required to deposit trust money into a trust account, and

(ii) the financial institutions in which a licensee is allowed to hold a trust account;

(z) prescribing the information that is required to be contained in an annual return, including prescribing the time within which a licensee is required to provide the annual return to the Registrar;

(za) prescribing the information and documentation that is required to be contained in, or accompany, a financial statement, including prescribing the period within which that information and documentation is required to be provided;

(zb) prescribing the information that is required to be contained in an advertisement;

(zc) prescribing information that is required to be disclosed in all correspondence and other written material prepared or used by a licensee;

(zd) respecting the service of documents;

(ze) prescribing forms required for the administration of this Act;

(zf) requiring that some or all records or documents required pursuant to this Act be stored, retained or submitted in electronic or other form;

(zg) prescribing the manner in which documents may be electronically stored, retained or submitted;

(zh) respecting any matter necessary to accommodate changes in technology.

(2) The exercise by the Minister of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2012, c. 11, s. 90; 2017, c. 9, s. 38.

Fees paid under Mortgage Brokers' and Lenders' Registration Act

91 Fees paid for permits under the former *Mortgage Brokers' and Lenders' Registration Act* may be credited toward licensing fees under this Act. 2012, c. 11, s. 91.

Assessment Act amended

92 *amendment*

Consumer Services Act amended

93 *amendment*

Mortgage Brokers' and Lenders' Registration Act repealed

94 Chapter 291 of the Revised Statutes, 1989, the *Mortgage Brokers' and Lenders' Registration Act*, is repealed. 2012, c. 11, s. 94.

Effective date

95 This Act comes into force on such day as the Governor in Council orders and declares by proclamation. 2012, c. 11, s. 95.

Proclaimed - September 8, 2020
In force - November 1, 2021