

City of Philadelphia



Philadelphia, April 19, 2001

CERTIFICATION: This is to certify that Bill No. 000715-A, was presented to the Mayor on the ninth day of April, 2001, and was not returned to the Council with his signature at a meeting held April 19, 2001 (being more than ten days after it has been presented to him).

THEREFORE, Pursuant to the provisions of Section 2-202 of the Philadelphia Home Rule Charter, the ordinance becomes effective as if the Mayor had approved it.

A handwritten signature in cursive script, reading "Marie B. Hauser".

Marie B. Hauser
Chief Clerk of the City Council

(Bill No. 000715-A)

AN ORDINANCE

Enacting a new Chapter 9-2400 of The Philadelphia Code, entitled "Prohibition Against Predatory Lending," and amending Section 19-201 entitled "City Depositories," Section 19-2602 entitled "Licenses" and Section 22-1001 entitled "Investments," to prohibit all business entities and their affiliates from making, issuing or arranging any subprime or high-cost loan, or assisting others in doing so, in any manner which has been determined to be abusive, unscrupulous and misleading, providing penalties for non-compliance, establishing a Predatory Lending Review Committee to investigate alleged predatory loans and to make enforcement recommendations against business entities who have made, assisted with, issued or arranged a loan determined to be predatory, and granting remedies to aggrieved parties and community organizations; all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

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SECTION 1. A new Chapter 9-2400 of The Philadelphia Code entitled “Prohibition Against Predatory Lending”, is hereby enacted, to read as follows:

CHAPTER 9-2400. PROHIBITION AGAINST PREDATORY LENDING PRACTICES.

§ 9-2401. Legislative Findings.

- (1) The City Council of the City of Philadelphia finds:*
 - (a) that citizens from many lower and moderate income neighborhoods in Philadelphia have been unable to access legitimate financing for home purchases and renovations, allowing predatory lenders to thrive; and*
 - (b) that these predatory lenders are charging exorbitant fees and interest rates and are persuading citizens to incur mortgage debt in excess of their needs or ability to pay, often through fraudulent means; and*
 - (c) these predatory lending practices appear to be targeting elderly and vulnerable borrowers; and*
 - (d) that to protect the citizens of Philadelphia and its neighborhoods from lending practices which strip hard earned equity from city residents and contribute to the problem of vacant and abandoned houses by making loans that families cannot afford to repay.*
- (2) It is the intent and purpose of this Chapter:*
 - (a) to collect and make available to the public information necessary for city residents to protect themselves against predatory lending practices; and*
 - (b) to prevent the lenders engaged in predatory lending and those persons providing referrals and services to those lenders from enjoying the privilege of doing business with our City; and*
 - (c) to prevent predatory lenders and those persons providing referrals and services to those lenders from taking advantage of city programs designed to encourage home ownership and home repair.*

§ 9-2402. Definitions.

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The following definitions shall apply throughout this Chapter:

(1) “Affiliate”. Any entity that controls, is controlled by, or is under common control with, another entity, including any successors in interest or alter egos.

(2) “Annual percentage rate” means the annual percentage rate for the loan calculated according to the provisions of the federal Truth in Lending Act (15 U.S.C. §1601 et. seq.), and the regulations promulgated thereunder by the Federal Reserve Board (as said Act and regulations are amended from time to time).

(3) “Business Entity”. Any individual, domestic corporation, foreign corporation, association, syndicate, joint stock company, partnership, joint venture, or unincorporated association, including any parent company, subsidiary, exclusive distributor or company affiliated therewith, engaged in a business or commercial enterprise;

(4) “City”. The City of Philadelphia;

(5) “City Agency”. The City of Philadelphia, its departments, boards and commissions;

(6) “City-related Agency”. All authorities and quasi-public corporations which either:

(a) receive appropriations from the City; or

(b) have entered into continuing contractual or cooperative relationships with the City; or

(c) operate under legal authority granted to them by City ordinance.

(7) “High Cost Lender” means a business entity that, through itself and/or an affiliate has made, issued or arranged, or assisted others in so doing, within any 12 month period, high cost loans that comprise either:

(a) 5% of the total annual number of loans made, issued or arranged or 5% of the total annual number of loans which the business entity has assisted others in making, issuing or arranging; or

(b) 10 individual loans; whichever is less.

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The term “high cost lender” shall not include a business entity, or its affiliates, that has submitted to the Director of the Office of Housing and Community Development a plan to discontinue the practice of making high cost loans, if the plan ensures:

(a) the prompt disengagement from the practice of making, issuing, or arranging, or assisting others in so making, issuing, or arranging high cost loans by the business entity and its affiliates, and

(b) the complete cessation of the making, issuing or arranging, or assisting others in the making, issuing or arranging of high cost loans by the business entity and its affiliates within 90 days after the plan is submitted; provided that no more than one plan may be submitted on behalf of any business entity.

(8) “High Cost Loan”. A loan that is secured by residential real property located within the City of Philadelphia on which there is situated a dwelling for not more than four families or a condominium unit, or is secured by a cooperative unit within the City of Philadelphia, if:

(a) at any time over the life of the loan, the annual percentage rate of the loan equals or exceeds by more than 6½ percentage points in the case of a first lien mortgage, or equals or exceeds by more than 8 percentage points in the case of a junior mortgage, the yield on Treasury securities having comparable periods of maturity to the loan maturity as of the fifteenth day of the month immediately preceding the month in which the application for the extension of credit is received by the creditor; or

(b) the total points and fees financed in such loan equal or exceed:

(i) 4 percentage points of the total loan amount less the amount of such points and fees if the loan amount is \$16,000 or greater, or

(ii) \$800 if the loan amount is less than \$16,000.

However, “high cost loan” shall not include a loan that is made primarily for a business purpose unrelated to the residential real property securing the loan, a loan with an annual percentage rate below that of a threshold loan at all times over the life of the loan, or any loan which exceeds \$150,000.

(9) “Points and Fees” means:

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(a) *All items required to be disclosed under sections 226.4(a) and 226.4(b) of Title 12 of the Code of Federal Regulations, as amended from time to time, except the interest rate or time-price differential;*

(b) *Subject to the exclusions provided below in this section, all charges for items listed under section 226.4(c)(7) of Title 12 of the Code of Federal Regulations, as amended from time to time, but only if the lender receives direct or indirect compensation in connection with the charge or the charge is paid to an affiliate of the lender; otherwise the charges are not included within the meaning of the phrase “points and fees”;*

(c) *All compensation paid directly or indirectly to a mortgage broker, including a broker that originates a loan in its own name in a tablefunded transaction, not otherwise included in paragraph (i) or (ii) of this section;*

(d) *The premium of any single premium credit life, credit disability, credit unemployment or any other life or health insurance that is financed directly or indirectly into the loan.*

“Points and fees” shall not include any charges or fees excluded by paragraphs (c) through (e) of Regulation Z of the Truth in Lending Act, section 226.4 of Title 12 of the Code of Federal Regulations, however, notwithstanding the foregoing, any fees for preparing loan-related documents, such as deeds, mortgages, and reconveyance or settlement documents shall be included in the definition of “points and fees”.

(10) *“Predatory lender” means a business entity that, through itself and/or an affiliate has made, issued or arranged, or assisted others in so doing, within any 12 month period, predatory loans that comprise either:*

(a) *5% of the total annual number of loans made, issued or arranged, or 5% of the total annual number of loans which the business entity has assisted others in so making, issuing or arranging; or*

(b) *10 individual loans; whichever is less.*

The term “predatory lender” shall not include a business entity, or its affiliates, that has submitted to the Director of the Office of Housing and Community Development a plan to discontinue the practice of making predatory loans, if the plan ensures:

(a) *the prompt disengagement from the practice of making predatory loans by the financial institution and its affiliates, and*

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(b) *the complete cessation of the making of predatory loans by the financial institution and its affiliates within 90 days after the plan is submitted; provided that no more than one plan may be submitted on behalf of any financial institution.*

(11) *“Predatory loan” means a threshold or high cost loan that was made under circumstances that involve any of the following acts or practices or that contain any of the following loan terms:*

(a) *Fraudulent or deceptive acts or practices, including fraudulent or deceptive marketing and sales efforts to sell high cost loans;*

(b) *“Loan Flipping”. “Flipping” a loan means the making of a threshold or high cost loan to a borrower that refinances an existing loan secured by residential property in the City of Philadelphia when:*

(i) *More than 50% of the prior debt refinanced bears a lower interest rate than the new loan unless the advisability and appropriateness of the new loan is certified by a counselor employed by a housing counseling agency approved by the Office of Housing and Community Development;*

(ii) *The borrower’s payment of prepaid finance charges and closing costs reduces the interest rate such that it will take more than five (5) years for the borrower to recoup the transactions costs; or*

(iii) *Refinancing a special mortgage originated, subsidized or guaranteed by or through a state, tribal or local government, or nonprofit organization, which bears either a below-marked interest rate, or has nonstandard payment terms beneficial to the borrower, such as payments that vary with income, are limited to a percentage of income, or where no payments are required under specified conditions, and where, as a result of the refinancing, the borrower will lose one or more of the benefits of the special mortgage.*

(c) *“Balloon Payments”. A loan that contains a scheduled payment that is more than twice as large as the average of earlier scheduled payments or which contains a provision that gives the lender, in its sole discretion, the right to accelerate the indebtedness in the absence of the default of the borrower.*

(d) *“Negative Amortization”. A loan which contains a payment schedule with regular periodic payments that cause the principal balance to increase.*

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(e) *“Points and Fees”*. The financing of points and fees in excess of 4 percentage points of the total loan amount less the amount of such points and fees if the loan amount is \$16,000 or greater, or \$800 if the loan amount is less than \$16,000.

(f) *“Increased Interest Rate”*. A loan which contains a provision that increases the interest rate after default. Interest rate increases do not constitute a predatory loan practice in a variable rate loan where the increase is otherwise consistent with the provisions of the loan documents, provided that the event of default or the acceleration of the indebtedness does not trigger the change in the interest rate.

(g) *“Advance Payments”*. A loan which includes terms under which more than two periodic payments required under the loan are consolidated and paid in advance from the loan proceeds provided to the borrower other than a loan issued by or guaranteed by the Commonwealth of Pennsylvania.

(h) *“Modification or Deferral Fees”*. A loan which includes terms under which the lender may charge a borrower any fees or other charges to modify, renew, extend, or amend a loan product or to defer any payment due under the terms of a loan product.

(i) *“Mandatory Arbitration”*. A loan which contains a mandatory arbitration clause that limits in any way the right of the borrower to seek relief through a court of law or equity.

(j) *“Prepayment Penalties”*. A loan which imposes prepayment fees or penalties on the borrower.

(k) *“Financing of Credit Insurance”*. The financing of any credit life, credit disability, credit unemployment, or any other life or health insurance, directly or indirectly, into one or more high cost loans.

(l) *“Lending Without Home Loan Counseling”* in violation of Section 9-2403(1)(b) except in conformity with the provisions of Section 9-2403(1)(f)(.2).

(m) *“Lending Without Due Regard to Repayment”* in violation of Section 9-2403(1)(c) except in conformity with the provisions of Section 9-2403(1)(f)(.2).

(12) *“Threshold loan”* means a loan that is secured by residential real property located within the City of Philadelphia on which there is situated a dwelling for not more than four families or a condominium unit, or is secured by

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a cooperative unit within the City of Philadelphia, if at any time over the life of the loan, the annual percentage rate of the loan exceeds by at least 4½ percentage points but less than 6½ percentage points, in the case of a first lien mortgage, or by at least 6½ percentage points but less than 8 percentage points, in the case of a junior mortgage, the yield on Treasury securities having comparable periods of maturity to the loan maturity as of the fifteenth day of the month immediately preceding the month in which the application for the extension of credit is received by the creditor.

However, a “threshold loan” shall not include a loan that is made primarily for a business purpose unrelated to the residential real property securing the loan or a loan which exceeds \$150,000.

§ 9-2403. Predatory Lending Practices Prohibited.

(1) Prohibited Conduct.

Subjects to the limitations of subsection (f):

(a) Issuing Predatory Loans

No person shall make, issue, or arrange a predatory loan, or assist others in doing so. A person who, when acting in good faith, fails to comply with this subsection will not be deemed to have violated this subsection if the person establishes that either:

(1) Within 30 days of the loan closing and prior to the institution of any action under this Chapter, the borrower is notified of the compliance failure, appropriate restitution is made, and whatever adjustments are necessary are made to the loan to either, at the choice of the borrower, (i) make the predatory loan satisfy the requirements of this Chapter or (ii) change the terms of the loan in a manner beneficial to the borrower so that the loan will no longer be considered a predatory loan subject to the provisions of this Chapter; or

(2) The compliance failure was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid such errors, and within 60 days after the discovery of the compliance failure and prior to the institution of any action under this Chapter or the receipt of written notice of compliance failure, the borrower is notified of the compliance failure, appropriate restitution is made, and whatever adjustments are necessary are made to the loan to either, at the choice of the borrower, (i) make the predatory loan satisfy the requirements of this Chapter, or (ii) change the terms of the loan in a manner beneficial to the borrower so that the loan will

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no longer be considered a predatory loan subject to the provisions of this Chapter. Examples of a bona fide error include clerical, calculation, computer malfunction and programming, and printing errors. An error of legal judgment with respect to a person's obligations under this Chapter is not a bona fide error.

(b) Lending Without Home Loan Counseling.

No person shall make, issue or arrange any threshold or high cost loan, or assist others in doing so, without first receiving notice from a counselor employed by a housing counseling agency approved by the Office of Housing and Community Development that the borrower has received counseling on the advisability of the loan transaction and the appropriateness of the loan for the borrower based upon the information provided by borrower and lender to the counselor at the time counseling is provided to the borrower.

(c) Lending Without Due Regard to Repayment

No lender shall make, issue or originate any threshold or high cost loan if the lender does not reasonably believe at the time the loan is consummated that the borrower or borrowers (when considered collectively in the case of multiple borrowers) will be able to make the scheduled payments to repay the obligation based upon a consideration of their current and expected income, current obligations, employment status, and other financial resources (other than the borrower's equity in the dwelling which secures repayment of the loan). A borrower shall be presumed to be able to make the scheduled payments to repay the obligation if, at the time the loan is consummated, or at the time of the first rate adjustment in the case of a lower introductory interest rate (i) the borrower's scheduled monthly payments on the loan (including principal, interest, taxes, insurance and assessments), combined with the scheduled payments for all other debt, do not exceed 50% of the borrower's documented and verified monthly gross income, and (ii) provided that the borrower has sufficient "residual income" as defined in the guidelines established in 38 C.F.R. §36.4337(e) and VA form 26-6393 to pay essential monthly expenses after paying the scheduled payments and any additional debt. This subsection applies only to borrowers whose income, as reported on the loan application which the lender relied upon in making the credit decision, is no greater than 120% of the median family income for the Philadelphia Metropolitan Statistical Area (MSA) (as defined by the Director of the U.S. Office of Management and Budget). For purposes of this section, the median family income shall be derived from the most recent estimates made available by the U.S. Department of Housing and Urban Development, at the time the application is received. For purposes of determining median income, only the income of the borrower or borrowers shall be considered.

(d) Payments to Home Improvement Contractors

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A lender shall not pay proceeds of a threshold or high cost loan to any “home improvement contractor”, as that term is defined in the Home Improvement Finance Act, 73 P.S. §500-102(9), and a home improvement contractor may not receive the proceeds of a threshold or high cost loan, other than (i) by an instrument payable solely to the borrower or borrowers, or (ii) at the election of the borrower, through a third-party escrow agent in accordance with terms established in a written agreement signed by the borrower and the home improvement contractor prior to the disbursement; provided however that in no instance shall more than 25% of the total proceeds of the threshold or high cost loan be disbursed at the time of closing.

(e) Incorporating Governmental Financial Assistance Funds

All persons shall be barred from promoting, utilizing, packaging, or in any other way incorporating funds from any of the programs administered by the City or a City Agency which are subject to regulation under Chapter 21-1100 of the Philadelphia Code in combination with any high cost or predatory loan. Any contract, lease, grant condition or other agreement entered into by the City with any City-related Agency shall contain a provision requiring that the City-related Agency, in the administration of governmental housing assistance funds abide by the provisions of this subsection as though its administration of such funds was directly subject to the provisions of this subsection.

(f) Provisions Not Applicable to Activities of Certain Financial Institutions

(.1) Subsection (a) is not applicable in the following circumstances:

- (i) With respect to a licensed duly lender as may be required under State law, solely because of the presence of a loan provision described in §9-2402(11)(c), (d) or (j), provided that such provision(s) are made in conformity with the requirements of federal law pursuant to the Alternative Mortgage Transaction Parity Act, 12 U.S.C. §3803 and provided that any such loan is not otherwise predatory as defined in §9-2402(11), or*
- (ii) In the case of a loan made pursuant to the Pa. Consumer Discount Act, 7 P.S. §6201 et. seq., solely because the loan contains any provision authorized by such act, provided that any such loan is not otherwise predatory as defined in §9-2402(11).*
- (iii) In the case of a loan made pursuant to the Pa. Secondary Mortgage Loan Act, 7 P.S. §6601 et. seq., solely because the loan*

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contains any provision authorized by such act, provided that any such loan is not otherwise predatory as defined in §9-2402(11).

(.2) Subsections (a), (b), (c), and (d) are not applicable with respect to a State-chartered bank, bank and trust company, savings bank, private bank or national bank, a State or federally chartered savings and loan association, a federally chartered savings bank or a State or federally chartered credit union. However, the provisions of subsections (a), (b), (c) and (d) shall apply to affiliates of such entities, except insofar as such affiliates are themselves one of the financial institutions enumerated above.

(2) Notice to Customers of Home Improvement Contractors

Each home improvement contractor must furnish the following notice, as published from time to time by the Office of Housing and Community Development along with each home improvement contract or bid for home improvement contract for any work to be performed on a residence located within the City of Philadelphia:

IMPORTANT NOTICE TO CUSTOMERS OF HOME IMPROVEMENT CONTRACTORS

If you need a loan to pay for home improvements:

BE CAREFUL. A lender will probably want to take a mortgage on your house. You should not borrow more than you can afford or more than you need. The loan you are being offered may be a threshold or high cost loan. You may be eligible for a different loan which charges significantly less interest or fees. Be very cautious about consolidating your debt with a home mortgage. Beware that if you default on this loan you could lose your house!

It is now the law in Philadelphia that before you sign any threshold or high cost home loan you must receive housing counseling assistance.

For the name, address and phone number of a housing counseling or legal services agency in your neighborhood, turn this notice over to see the list of agencies printed on the reverse side.

I received this notice on this date: _____ (date)

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signature of home owner(s)

(3) *Certification of Compliance to be Recorded.*

At the time of recording a mortgage, the lender and, if applicable the mortgage broker, must submit a certification of compliance to the Department of Records for recording along with the mortgage instrument and deed. The Department of Records shall make the information contained in such certifications available to the public in the most usable form the department practicably can provide. The certification of compliance shall be substantially in the following form and shall comply with any formatting requirements promulgated from time to time by the Department of Records.

CERTIFICATION

The undersigned lender and mortgage broker certify, that to the best of our knowledge, information and belief, the attached mortgage, described below, entered into between _____(name of lender) and _____(name of borrower) on _____(date of execution) for the property located at _____(street address of property) contains the following characteristics and terms:

Type of mortgage: Purchase Money Non-purchase Money (circle one)

 First Mortgage Junior Mortgage (circle one)

- a. The annual percentage rate of the loan is _____
- b. The applicable Treasury Rate¹ is: _____
- c. The total loan amount is _____
- d. The total amount of points and fees² is _____
- e. The percentage of points and fees financed³ is _____

¹The yield on Treasury securities having comparable periods of maturity to the loan maturity as of the fifteenth day of the month immediately preceding the month in which the application for the extension of credit is received by the creditor

² Points and fees are defined in §9-2402 of the Philadelphia Code.

³Calculated according to the equation $d/(c-d) \times 100$

1. *The mortgage is or is not (circle one) a threshold or high cost loan.*
2. *The borrower has or has not (circle one) received housing counseling. A certification of housing counseling is or is not (circle one) attached to this certification.*

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3. *The mortgage does or does not (circle one) violate any provisions of Chapter 9-2400 of the Philadelphia Code.*

Date: _____

Mortgage Lender

Name and Title of Officer

Address

Telephone Number

Philadelphia Bus. Privilege Lic. No.

Mortgage Broker

Name and Title of Officer

Address

Telephone Number

Philadelphia Bus. Privilege Lic. No.

§ 9-2404. Penalties.

(1) Fines.

(a) Each day in which a borrower is assessed with interest on the principal loan amount of a predatory loan shall constitute a separate violation of this Chapter.

(b) Any person who violates this Chapter shall be subject to a fine of not less than \$100 and not more than \$300 per day of violation.

(2) Loss of City Contracts.

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(a) *No person or business entity shall be awarded a contract with the City or a City Agency if the person or business entity or any of its affiliates is a high cost lender or a predatory lender. Every contract with the City shall contain a provision requiring that the person or business entity with which the City is contracting must certify that neither the person or business entity nor any of its affiliates is a high cost lender or a predatory lender. Nothing in this section shall affect the validity of any contract entered into in connection with any debt obligations issued by or on behalf of the City, regardless of whether the contract was awarded in compliance with this Section. Any other contract awarded in violation of this Section shall be voidable at the option of the City.*

(b) *Any contract, lease, grant condition or other agreement entered into by the City with any City-related Agency shall contain a provision requiring that the City-related Agency, in the procurement of goods and services purchased pursuant to agreement between the City and the City-related Agency, abide by the provisions of subsection (a) of this Section as though such procurement was directly subject to such provision. The City-related Agency shall require City approval for any waivers.*

(c) *The Procurement Commissioner may suspend the ineligibility of a person or business entity in order to allow execution of a contract with the person or entity upon written application by the head of the City agency or City-related Agency affected by the proposed contract, setting forth facts sufficient in the judgment of the purchasing agent to establish:*

- i) that the public health, safety or welfare of the City requires the goods or services of the person or business entity; and*
- ii) that the City is unable to acquire the goods or services at comparable price and quality, and in sufficient quantity from other sources.*

(3) Loss of Business Privilege License

No person possessing a business privilege license may, in connection with any home repair or improvement contract, act as agent for, or advertise, promote, recommend the services of, or make a direct or indirect referral to a high cost lender or a predatory lender or an affiliate of a high cost lender or a predatory lender, as defined in this Chapter. Any person who intends to operate or is operating in violation of this Section or Section 9-2403 shall be subject to the revocation of its business privilege license pursuant to Title 19 Section 2602 of The Philadelphia Code.

(4) Forfeiture of government funded housing assistance

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Any person or business entity which receives any grant funds from the City or a City Agency which are subject to regulation under Chapter 21-1100 of the Philadelphia Code to assist a borrower in securing a high cost or predatory loan shall forfeit all such funds to the City, provided that nothing herein shall restrict the ability of any agency receiving grant funds from the City from providing counseling services to borrowers of threshold and high cost loans. Any contract, lease, grant condition or other agreement entered into by the City with any City-related Agency shall contain a provision requiring that the City-related Agency, in the administration of governmental housing assistance funds abide by the provisions of this subsection as though its administration of such funds was directly subject to the provisions of this subsection.

§ 9-2405. Enforcement.

(1) The Director of the Office of Housing and Community Development is hereby charged with the enforcement of this Chapter. The Director shall promulgate such rules, regulations and procedures as he or she may deem necessary to aid in the administration and enforcement of the provisions of this Chapter. Such rules and regulations shall include the standards, guidelines and procedures for the approval of plans pursuant to subsections 9-2402(7) and (10).

For the purpose of enforcement of the provisions of this ordinance, the Director shall maintain a listing of those business entities which have been determined to meet the definition of high cost lender and predatory lender under this Chapter and shall regularly distribute this listing to all City Agencies and City-Related Agencies. This listing shall also be made available to the public free of charge by request of the Office of Housing and Community Development.

The Director of the Office of Housing and Community Development may make findings with respect to predatory loans and predatory lenders based on recommendations made by a Predatory Lending Review Commission.

§9-2406. Private Right of Action.

(1) Notwithstanding the provisions of Section 9-2404, any individual who becomes obligated on a predatory loan may bring an action for damages and/or equitable relief in a court of competent jurisdiction against any person who violates this Chapter. Judgment shall be entered for actual damages, but in no case less than the amount of home equity the individual lost as a result of the predatory loan, as determined by the court, rescission of the predatory loan in accordance with the rescission provisions of the

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federal Truth in Lending Act, reasonable attorneys, fees and court costs.

- (2) *Nothing in this Chapter limits the rights of the injured person to recover damages or seek equitable relief under any other applicable law or legal theory.*

§ 9-2407. Severability.

If any clause, sentence, paragraph, or part of this Chapter, or the application thereof to any person or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Chapter nor the application of such clause, sentence, paragraph or part to other persons or circumstances but shall be confined in its operation to the clause, sentence, paragraph or part thereof and to the persons or circumstances directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that this Chapter would have been adopted had such provisions not been included or such persons or circumstances been expressly excluded from their coverage.

SECTION 2. Section 19-2602 of The Philadelphia Code is hereby amended to read as follows:

§19-2602. Licenses.

* * *

- (4) Every person required to procure a license under this Section shall as a condition to the receipt or retention of said license:

* * *

- (f) *refrain from violating any provision of Chapter 9-2400 of the Philadelphia Code entitled “Prohibition Against Predatory Lending.”*

(.1) The Department of Licenses and Inspections shall refrain from issuing or shall revoke, the business privilege license of any person, who under color of such license intends to operate, or is operating, in violation of the provisions of sub-sections 19-2602-(4)(b), (4)(c) (4)(d), [or] (4)(e) or (4)(f), and shall take all steps necessary to terminate the business operations of any business

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establishment that has violated any of such sub-sections, including but not limited to the following:

* * *

[(f)] (g)

* * *

[(g)] (h)

* * *

SECTION 3. Section 19-201 of the Philadelphia Code is hereby amended to read as follows:

§19-201. City Depositories.

(2) Each City depository shall:

* * *

(d) *provide the City with an affidavit certifying that neither it, nor any of its affiliates, is, and none will become a high cost lender or a predatory lender as defined in Chapter 9-2400, Prohibition Against Predatory Lending Practices. The affidavit shall be in a form prescribed by the City Treasurer and shall be sworn by one or more of the officers of the depository.*

(e) *provide the City with predatory lending information, which shall include, but is not limited to the market share ratio of the depository's refinance loans in minority census tracts in Philadelphia to non minority census tracts in Philadelphia, and the market share ratio of the depository's refinance loans in low and moderate income census tracts in Philadelphia to middle and upper income census tracts as all terms describing census tracts are defined in 12 C.F.R. Pt. 955, App. A (as amended); and considering each affiliate separately in calculations.*

* * *

(6) The City Treasurer shall not keep any City funds on deposit in any bank or other financial institution designated by Council as a depository of City funds which:

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(a) provides, either directly or indirectly through such entities as its parent corporation, affiliate, subsidiary or agent, any of the following services:

* * *

(.4) engages in lending practices as a high cost lender or a predatory lender as defined in Chapter 9-2400. Prohibition Against Predatory Lending Practices.

SECTION 4. Section 22-1001 of Title 22 of the Philadelphia Code is hereby amended to read as follows:

§22-1001. Investments

* * *

(5) *Investments in Predatory Lenders and Affiliates*

(a) *No monies or funds held under any provision of the Municipal Retirement System shall remain invested or hereinafter be invested in the stocks, securities, or other obligations of any business entity which is a high cost lender or a predatory lender or which is an affiliate of any business entity which is a high cost lender or a predatory lender pursuant to Chapter 9-2400. Prohibition Against Predatory Lending Practices.*

(b) *No monies or funds held under any provision of the Municipal Retirement System shall remain invested or hereinafter be invested in the securities collateralized by any interest in loans originating or purchased by any business entity which is a high cost lender or a predatory lender or which is an affiliate of any business entity which is a high cost lender or a predatory lender pursuant to Chapter 9-2400. Prohibition Against Predatory Lending Practices.*

(c) *The divestiture required by this subsection shall be completed within six (6) months of receipt by the Board of Pensions and Retirement of notice from the Director of the Office of Housing and Community Development that a business entity is a high cost lender or a predatory lender or an affiliate of a high cost lender or a predatory lender. During the six (6) month period, the Board of Pensions and Retirement shall make regular reports to the City Council concerning the progress of divestiture. If, prior to expiration of the six (6) month time limit for divestiture, the Board determines that completion of divestiture within the six (6) month time limit will necessitate substantial losses to the Retirement System, then the Board shall request from City Council an extension of time within which to complete divestiture.*

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SECTION 5. Effective Date. This ordinance shall take effect 90 days after passage.

Explanation:

[Brackets] indicate matter deleted.
Italics indicate new matter added.

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