

**Pennsylvania Mortgage Licensing Act:
Remote Work Flexibility Amendment - Written Testimony
PA House Subcommittee on Financial Services & Banking**

Submitted by the Mortgage Bankers Association of PA

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Chairman Brooks, Chairman Pisciotano, members of the Subcommittee and staff, my name is Leonard A. Bernstein and I am appearing in my capacity as Legislative Counsel of the Mortgage Bankers Association of Pennsylvania. I am testifying in support of legislation to establish remote work flexibility for lenders covered by the Mortgage Licensing Act (the “MLA”).

The MBA of PA consists of two affiliated regional MBA organizations, one in Eastern Pennsylvania and another in Southwestern Pennsylvania. I am pleased to have with me here in Harrisburg leaders of those respective regional organizations. These leaders made the trip to demonstrate wide support for remote work flexibility legislation. Meet Amy Azorandia of Firsttrust Bank, Secretary and Board Member of the MBA of Eastern Pennsylvania; Constance P. Lawrence of First Commonwealth Bank, Vice President & President Elect of the Southwestern Pennsylvania MBA; and Carolyn Arriviello of MGIC, State Delegate of the Southwestern Pennsylvania MBA. As you can see, our membership includes nonbank lenders subject to the MLA, banks that originate residential mortgage loans, and vendors such as title insurers, appraisers and mortgage insurance companies.

By way of background, the onset of the COVID-19 pandemic led many states, including Pennsylvania, to issue shelter-in-place mandates that required all employees, except those deemed “essential,” to work from home. The Governor's office and the Pennsylvania Department of Banking & Securities (the “Department”), among other agencies, provided guidance to affected businesses and organizations. The MBA of Pennsylvania especially appreciates the support and flexibility extended to our members by the Department in issuing temporary remote work guidance. However, these mandates presented a legal challenge for state licensed mortgage lenders in Pennsylvania and elsewhere, because most mortgage licensing laws generally require all regulated activities to be conducted from a licensed location, such as a branch office.

We, like all Pennsylvanians, are gratified by the continuing wide delivery of vaccines, and the apparent decline in the spread of the virus. However, given the uncertain trajectory of newly emerging strains as well as the uncertain long-term effectiveness of vaccines, permanent legal guidance about remote work flexibility is necessary to protect employee health as well as to facilitate our ability to serve our customers.

Individual mortgage loan originators (“MLOs”) must be licensed under the MLA. MLOs discuss loan terms and pricing directly with consumers. State laws and regulations, enacted in the wake of the financial crisis, generally require licensed MLOs to work from a licensed location or

require certain functions to be performed under the supervision of licensed staff. Indeed, the Pennsylvania section of the National Mortgage Licensing Service website says "A mortgage originator shall be assigned to and work out of a licensed location of the employer license." Again, remote locations are not clearly addressed under current law.

The only exception in current law to working at a licensed location appears to allow work from home if the MLO's home is located within 100 miles of a branch. In today's world, such restrictions are unworkable. Plus, as the last 12 months have demonstrated, being closer to customers where ever they are in the Commonwealth helps provide better service.

The remote work flexibility amendment to the MLA is simple. It is based on a model legislative proposal promulgated by the Mortgage Bankers Association of America, so it is being introduced or has passed in many other states.

Our amendment would establish under the MLA the concept of a "remote location." Remote locations could be located anywhere in the Commonwealth. Unlike branches, remote locations would not be licensed under the MLA. An MLO or other mortgage company employee could engage in mortgage activities for its employer from a remote location, but only under specified conditions. These conditions mandate supervision of the remote location by the licensee, establishment of operating policies and procedures, and development of a written information security plan to protect privacy. No in-person contact with a customer would be permitted, no physical records could be kept on-site, and no advertising of the location would be permitted to customers.

Importantly, this MLA amendment would not weaken vital Department powers to protect borrowers. Nor would the MLA Amendment impede the ability of the Department to examine and supervise MLA licensees. The MBA of PA welcomes the opportunity to engage with the Department to develop further standards that would facilitate the ability to work from a remote location in a safe and secure manner.

Some have observed that the MLA amendment could lead to a diminution of branches and therefore less licensing fee revenue. Such revenue is an important source of funding for the Department. We expect no diminution of licensed branches and doubt this result will ensue, but if it does, we are open to discussing solutions.

We have received your draft bill which is based on a suggested draft we submitted. We strongly endorse the bill with the following small changes. First, on page 3, line 5, the word "not" seems to have been dropped, so the regulatory protection should read: "Physical records regarding the licensee's mortgage loan business are not maintained at the location."

Second, on page 4, the bill establishes the "remote location" as a place to work. For those choosing the remote location option, the present text requires an MLO to be "assigned to and work out of" a remote location. Per our draft, we believe that assigning each interested MLO to a remote

location is a cumbersome requirement, so our draft merely stated that an MLO "may work out of a remote location." We recommend our approach but are open to discussion.

We have several letters of support from MBA of PA members and have attached them to this written submission and will also submit them in person at the hearing.

To conclude, the poet Maya Angelou said "The ache for home lives in all of us, the safe place where we can go as we are and not be questioned." The MBA of PA and its members are doing their part to relieve this "ache for home" for consumers all across the Commonwealth. We ask you to support the MLA remote work flexibility amendment to make our work places safe and to enable our customers throughout the Commonwealth to make the safe places of their dreams a reality. Thank you.