



MARKET SQUARE PLAZA | 17 N SECOND STREET, Suite 1300 | HARRISBURG, PA 17101
Ph 717.787.3717 Fx 717.787.8773 W www.dobs.pa.gov

Bond No. _____

MORTGAGE BROKER BOND – ADVANCE FEES

WHEREAS, Department means the Department of Banking and Securities of the Commonwealth of Pennsylvania located at 17 N. 2nd Street, Suite 1300, Harrisburg, Pennsylvania 17101, and

WHEREAS, Principal means _____,
(Name of Mortgage Broker)

with its principal place of business at _____
(Principal's Address)

and phone number of _____.
(Principal's Phone Number)

WHEREAS, Surety means _____,
(Name of Surety Company)

incorporated under the laws of the State of _____,
(State of Surety Company's Incorporation)

with its principal place of business at _____
(Surety's Address)

and phone number of _____.
(Surety's Phone Number)

WHEREAS, Surety is licensed to do business in the Commonwealth of Pennsylvania, and is approved by the Secretary of Banking and Securities of the Commonwealth of Pennsylvania ("Secretary") as an acceptable Surety, and

WHEREAS, reference is made herein to the Mortgage Licensing Act (7 Pa. C.S. §§ 6101-6154), and

WHEREAS, any reference in this bond to any statute or regulation, including, but not limited to, the Mortgage Licensing Act (“Act”) and the General Rules of Administrative Practice and Procedure (“GRAPP”), include the statute or regulation in force at the time this bond is executed as well as any subsequent amendments, alterations or replacements of such statute or regulation, and

WHEREAS, Principal has applied to the Department for a license under the provisions of the Mortgage Licensing Act, and

WHEREAS, the granting of the license by the Department to Principal is conditioned upon Principal obtaining a penal bond in the amount of \$100,000 where Principal intends to accept and will accept advance fees, and

NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS that Principal and Surety, are held and firmly bound unto the Commonwealth of Pennsylvania in the just and full sum of one hundred thousand dollars (\$100,000) to the payment whereof, well and truly to be made, we bind ourselves, and our heirs, executors, administrators, successors and assigns, jointly and severally firmly by these presents:

1. **Condition of the Obligation.** If the Principal shall faithfully comply with the conditions of the Act and carry out the terms of any provision for which advance fees are paid, then this obligation shall be null and void, otherwise to be and remain in full force and effect.

2. **Effective Date.** The effective date of this bond is set forth below.

3. **Duration of Bond.** This bond shall continue in full force and effect indefinitely, subject, however, to cancellation.

4. **Cancellation.** Surety may elect to cancel this bond at any time by filing with the Secretary a thirty (30) day written notice of such cancellation. The bond cancellation shall be effective on the thirtieth (30th) day after the filing of the written notice of cancellation. Surety shall remain liable for all transactions associated with the loaning of money at interest by Principal during the term of this bond until the effective date of the cancellation.

5. **Surety’s Liability.** Regardless of the number of years this bond remains in force, the aggregate liability of Surety for any and all claims or judgments to one or more claimants in no event shall exceed the full penal sum.

6. **Default.** Upon the happening of any default of the conditions and obligations assumed under this bond and the declaration of a default by the Secretary, or his designee, the Secretary, or his designee, shall notify the Principal and Surety of such default. Said Surety shall

pay the amount claimed within 30 days of the date of notice. If the Surety does not pay the amount claimed within 30 days after the notice of default, Principal and Surety hereby authorize and empower any attorney of record in Pennsylvania or elsewhere to appear for them, or either of them, and after one or more declarations filed to confess judgment against them in favor of the Commonwealth, to its use or the use of its certain attorney or assigns, for an amount up to the penal sum of the bond, together with costs of suit and five percentum, added as attorney fee, and they do further release all errors, and waive the right of exemption, and stay of execution and authorize the levy of their monies.

7. **Events Not Affecting Bond Liability.** This bond shall not be discharged by:

- a. the recovery of any specific amount of charges for examination, damages, costs, judgments, fines or penalties obtained in any specific action. The bond shall be in full force and effect until the full amount of the bond of one hundred thousand dollars (\$100,000) shall have been paid by reason of any number of charges for examination, damages, costs, judgments, fines or penalties to which the Principal may have become subjected; or
- b. sums due, where the right to which sums did not arise during the license year for which the license found on the application which this bond accompanied was granted.

8. **Department Remedies.** Upon a forfeiture order of the Department becoming final the Department may pay itself for any amount due to it under the Act, including but not limited to, any fines, examination fees or any expenses incurred in connection with this bond.

9. **Remedies of Persons:** Persons have the following remedies under this bond:

- a. **Adjudication.** Upon a forfeiture order of the Department becoming final, any person may seek payment from the proceeds of this bond in the custody of the Department for any damages and costs incurred as a result of Principal's violation of the Act or any regulation promulgated under the Act by filing a petition with the Department pursuant to 1 Pa. Code § 35.17. The Department shall adjudicate a person's claim pursuant to the General Rules of Administrative Practice and Procedure, 1 Pa. Code § 31.1 *et seq.* ("GRAPP"); or
- b. **Formal Complaint.** In the absence of any proceedings or a final order to forfeit this bond, any person who has suffered damages as a result of Principal's violation of the Act, or any rule or regulation promulgated under the Act, may file a formal complaint pursuant to 1 Pa. Code § 35.9 seeking to recover alleged damages and costs from this bond. The Department shall adjudicate the formal complaint using the procedures provided in GRAPP and thereby determine what payment, if any Surety shall pay to the claimant. Surety shall be bound by, and shall pay to such aggrieved person, the amount adjudicated by the Department; or

- c. **Claims to Surety.** In the absence of any proceedings or a final order to forfeit this bond, any person who has suffered damages as a result of Principal's failure to carry out the terms of any provision for which advance fees are paid, may file a claim with Surety for payment of damages and costs incurred as a result of Principal's violation, provided the Department assents thereto in writing. Within thirty (30) days of the date that an aggrieved consumer files a claim with Surety, Surety shall decide whether or not to dispute such a claim. If Surety does not dispute a claim filed with it pursuant to this paragraph, then Surety shall pay such claim within thirty (30) days of the date that such claim was filed with Surety. If Surety disputes any claim filed with it pursuant to this paragraph, then Surety shall give written notice of such dispute to the consumer filing such claim within thirty (30) days of the date such claim was filed with Surety. If Surety disputes any claim with it by an aggrieved consumer pursuant to this paragraph or Surety denies or refused to pay or fails to pay any such claim for any reason within thirty (30) days such claim was filed with Surety, then the aggrieved person who filed such claim may claim on this bond pursuant to any or all of the other procedures provided in this bond.

10. **Pro Rata Payments to Persons.** If, at any time, the Department determines that all actual or potential claims on this bond could exceed the penal sum, then the Department may withhold payment pursuant to this paragraph until the Department has adjudicated all likely potential claims on this bond and those adjudications have become final.

11. **Disclosure.** Principal and Surety agree that the Department may publish, divulge or otherwise disclose to any person or government entity this bond, the contents of this bond, and any information or material related to this bond. The information which may be disclosed includes, but is not limited to, pleadings, other submissions and orders related to any administrative proceedings, when such publication divulgement or disclosure is related to an administrative, judicial or other legal proceeding concerning this bond.

12. **Headings.** The headings used herein are for descriptive purposes only and have no legal force or effect.

IN WITNESS WHEREOF, Principal and Surety have set their hand, intending to be legally bound as of the day ____ of _____, 20____ (“Effective Date”).

PRINCIPAL:

(Print Principal Name)

Signed this ____ day of _____, 20____.

By: _____
(Signature)

(Title: i.e. Attorney in Fact)

ATTEST OR WITNESS:

(Where Required)

SURETY:

(Print Surety Name)

Signed this ____ day of _____, 20____.

Approved as to legality and form:

PRE-APPROVED OAG 10/27/14

/Robert A. Mulle/
Office of Attorney General

PRE-APPROVED OGC 9/5/14

/Shawn E. Smith/
Office of General Counsel

Form No. 3-FA-4.1

By: _____
(Signature)

(Title: i.e. Attorney in Fact)

ATTEST OR WITNESS:

(Where Required)