

# CHAPTER 55. MORTGAGE BROKERS, MORTGAGE LENDERS AND MORTGAGE LOAN ORIGINATORS

## SUBCHAPTER 3. LICENSING

### 160:55-3-1.1. Licensing requirements

- (a) **Mortgage loan originator license.** The requirements for obtaining a mortgage loan originator license consist of the following:
- (1) **Application.** The application shall be submitted through the NMLS&R Internet website. The Department's website shall include a link to the NMLS&R website.
  - (2) **Pre-licensing education.** Twenty (20) hours of pre-licensing education are required. Pre-licensing education courses and providers are reviewed and approved by NMLS&R. Information regarding pre-licensing education, including, but not limited to, approved courses, providers and scheduling is available from NMLS&R.
  - (3) **Testing.** An applicant is required to pass a qualified written test developed by the NMLS&R in accordance with the standards established under 59 O.S. § 2095.9. The test is administered by a test provider approved by the NMLS&R based upon reasonable standards. Information regarding the test is provided by NMLS&R, including but not limited to, approved testing providers, testing locations, study materials and test scheduling.
  - (4) **Background checks.** Applicants are required to pass a background check. The background check consists of the following:
    - (A) **Fingerprints.** An applicant is required to submit fingerprints to NMLS&R. Information regarding fingerprints is indicated on the NMLS&R website.
    - (B) **Applicants with felony convictions or pleas.** Applicants with felony convictions or applicants that have pled guilty or nolo contendere to a felony shall submit a certified copy of the indictment or other official court document indicating the criminal charges against the applicant and a certified copy of the final judgment and sentence of the court. Whether a particular crime is classified as a felony is determined by the law of the domestic, military or foreign court in which the applicant was convicted or in which the applicant pled guilty or nolo contendere to the felony. Domestic court includes any state or federal court of the United States of America. State court includes the courts of any state, territory, district, commonwealth or possession of the United States of America.
    - (C) **Credit reports.** An applicant is required to submit personal information to NMLS&R for the purpose of obtaining credit reports. The purpose of the credit reports is to determine the financial responsibility of an applicant.
  - (5) **Additional information.** The Administrator is authorized to require additional information from an applicant. Any additional information required by the Administrator shall be submitted to the Administrator. An applicant that fails to provide information as requested by the Administrator shall be deemed a withdrawal of the application.
  - (6) **Fees.** Payment of all required license fees shall be submitted through NMLS&R. Information regarding acceptable methods of payment is available on the NMLS&R website.
  - (7) **Results.** Test score results, verification of completion of pre-licensing education and background check information are submitted to the Administrator by NMLS&R. The Administrator reviews the information to determine if an applicant qualifies for licensure.
- (b) **Mortgage broker license.** The requirements for obtaining a mortgage broker license consist of the following:
- (1) **Application.** The application shall be submitted through the NMLS&R Internet website. The Department website shall include a link to the NMLS&R website.
  - (2) **Additional information.** The Administrator is authorized to require additional information from an applicant. Any additional information required by the Administrator shall be submitted to the Administrator. An applicant that fails to provide information as requested by the Administrator shall be deemed a withdrawal of the application.
  - (3) **Designation of mortgage loan originator.** An applicant shall designate a licensed mortgage loan originator to oversee the operations of the applicant. An individual designated to serve as the mortgage loan originator for a mortgage broker shall not serve as the designated mortgage loan originator for any other mortgage broker, mortgage lender or any branch office of the mortgage broker.
  - (4) **Officers, owners, directors and partners.** The application shall list each officer, owner, director or partner of the applicant. An officer, owner, director or partner of the applicant shall not act as a mortgage loan originator as defined by the SAFE Act unless each officer, owner, director or partner is licensed as a mortgage loan originator. Each officer, owner, director or partner of the applicant is required to pass a background check. The applicant shall submit the following information for each officer, owner, director or partner to NMLS&R:
    - (A) **Fingerprints.** Information regarding fingerprints is indicated on the NMLS&R website.
    - (B) **Felony convictions or pleas.** Any officer, owner, director or partner of a mortgage broker applicant with a felony conviction or that has pled guilty or nolo contendere to a felony shall submit a certified copy of the indictment or other official court document indicating the criminal charges against the applicant and a certified copy of the final judgment and sentence of the court. Whether a particular crime is classified as a felony is

determined by the law of the domestic, military or foreign court in which the officer, owner, director or partner was convicted or in which the officer, owner, director or partner pled guilty or nolo contendere to the felony. Domestic court includes any state or federal court of the United States of America. State court includes the courts of any state, territory, district, commonwealth or possession of the United States of America.

(C) **Credit reports.** Each officer, owner, director or partner of a mortgage broker applicant is required to submit personal information to NMLS&R for purposes of obtaining credit reports for each officer, owner, director or partner of a mortgage broker applicant. The purpose of the credit reports is to determine the financial responsibility of each officer, owner, director or partner of a mortgage broker applicant.

(D) **Additional information.** The Administrator is authorized to require additional information from an applicant. Any additional information required by the Administrator shall be submitted to the Administrator. An applicant that fails to provide information as requested by the Administrator shall be deemed a withdrawal of the application.

(5) **Fees.** Payment of all required fees shall be submitted through NMLS&R. Information regarding acceptable methods of payment is available on the NMLS&R website.

~~(c) Mortgage broker branch office license.~~ An applicant maintaining more than one location for the transaction of mortgage business shall obtain a branch office license for each location. The NMLS&R website provides information for obtaining branch office licenses:

~~(1) Fees.~~ Payment of all required license fees shall be submitted through NMLS&R. Information regarding acceptable methods of payment is available on the NMLS&R website.

~~(2) Designated loan originator.~~ Each mortgage broker branch office shall designate a licensed mortgage loan originator to oversee the operations of the mortgage broker branch office. An individual shall not serve as the designated mortgage loan originator for more than one (1) branch office.

~~(3) Results.~~ The results of any information required for the application process are submitted to the Administrator by NMLS&R. The Administrator reviews the information to determine if an applicant qualifies for licensure.

~~(4) Additional information.~~ The Administrator is authorized to require additional information from an applicant. Any additional information required by the Administrator shall be submitted to the Administrator. An applicant that fails to provide information as requested by the Administrator shall be deemed a withdrawal of the application.

~~(d) (c) Mortgage lender license.~~ The requirements for obtaining a mortgage lender license consist of the following:

(1) **Application.** The application shall be submitted through the NMLS&R Internet website. The Department website shall include a link to the NMLS&R website.

(2) **Bond.** The applicant shall file a One Hundred Thousand Dollar (\$100,000.00) bond that satisfies the requirements of 59 O.S. § 2095.11.1. The bond shall also secure the faithful performance of all duties and responsibilities of any branch office of the mortgage lender.

(3) **Net worth.** The applicant must have a minimum net worth of Twenty-Five Thousand Dollars (\$25,000.00) that is verified as required by 59 O.S. § 2095.11.1.

(4) **Designation of mortgage loan originator.** The applicant shall designate a licensed mortgage loan originator to oversee mortgage loan origination activities if the applicant engages in activity that satisfies the definition of a mortgage broker as defined by the SAFE Act. An individual designated as the mortgage loan originator for a mortgage lender shall not serve as the designated mortgage loan originator for any other mortgage lender, mortgage broker or any branch office of the mortgage lender.

(5) **Criminal background check.** Officers, owners, directors and partners, as applicable, shall submit fingerprints through NMLS&R for purposes of obtaining a criminal background check. Any officer, owner, director or partner of a mortgage lender applicant with a felony conviction or that has pled guilty or nolo contendere to a felony crime shall submit a certified copy of the indictment or other official court document indicating the criminal charges against the applicant and a certified copy of the final judgment and sentence of the court. Whether a particular crime is classified as a felony is determined by the law of the domestic, military or foreign court in which the officer, owner, director or partner was convicted or in which the officer, owner, director or partner pled guilty or nolo contendere to the felony crime. Domestic court includes any state or federal court of the United States of America. State court includes the courts of any state, territory, district, commonwealth or possession of the United States of America.

(6) **Financial responsibility.** Each officer, owner, director and partner, as applicable, must demonstrate financial responsibility. Each officer, owner, director and partner, as applicable, must submit personal information to NMLS&R for purposes of obtaining a credit report. The credit report will be utilized to determine the financial responsibility of each officer, owner, director and partner of the mortgage lender applicant, as applicable.

(7) **Fees.** Payment of all required fees shall be submitted through NMLS&R. Information regarding acceptable methods of payment is available on the NMLS&R website.

(8) **Additional information.** The Administrator is authorized to require additional information from an applicant. Any additional information required by the Administrator shall be submitted to the Administrator. An applicant that fails to provide information as requested by the Administrator shall be deemed a withdrawal of the application.

~~(d) Mortgage lender branch office license.~~ A mortgage lender applicant that maintains more than one location for the transaction of business shall obtain a branch office license for each location. The requirements for obtaining a mortgage lender branch office license consist of the following:

(1) **Application.** The application shall be submitted through the NMLS&R Internet website. The Department website shall include a link to the NMLS&R website.

(2) **Fees.** Payment of all required fees shall be submitted through NMLS&R. Information regarding acceptable methods of payment is available on the NMLS&R website.

(3) **Designation of mortgage loan originator.** The applicant shall designate a licensed mortgage loan originator to oversee mortgage loan origination activities if the applicant engages in activity that satisfies the definition of a mortgage broker as defined by the SAFE Act. An individual designated to serve as the mortgage loan originator for a mortgage lender branch office shall not serve as the designated mortgage loan originator for any other mortgage lender, mortgage broker or any branch office of the mortgage lender.

(4) **Additional information.** The Administrator is authorized to require additional information from an applicant. Any additional information required by the Administrator shall be submitted to the Administrator. An applicant that fails to provide information as requested by the Administrator shall be deemed a withdrawal of the application.

### **160:55-3-8. Mortgage broker and mortgage lender license changes**

(a) **Notification.** At least thirty (30) days before any proposed change in ownership or any change in the officers, owners, directors, partners or the designated mortgage loan originator of a mortgage broker or mortgage lender, the mortgage broker or mortgage lender shall notify the Administrator of the proposed change by regular United States mail, electronic mail, facsimile or courier service. The mortgage broker or mortgage lender shall also contact the Administrator for instructions regarding the completion of necessary documentation to process the proposed change.

#### **(b) Required documentation and information.**

(1) **Change in ownership, officers, directors or partners.** A mortgage broker or mortgage lender with a proposed change of ownership or a proposed change of any officers, directors or partners shall submit the following information for each new proposed owner, officer, director or partner:

(A) Fingerprints.

(B) Personal information for obtaining credit reports.

(C) Any proposed officer, owner, director or partner that has a felony conviction or has pled guilty or nolo contendere to a felony shall submit a certified copy of the indictment or other official court document indicating the criminal charges against the applicant and a certified copy of the final judgment and sentence of the court. Whether a particular crime is classified as a felony is determined by the law of the domestic, military or foreign court in which the officer, owner, director or partner was convicted or in which the officer, owner, director or partner pled guilty or nolo contendere to the felony. Domestic court includes any state or federal court of the United States of America. State court includes the courts of any state, territory, district, commonwealth or possession of the United State of America.

(D) Any additional documentation required by the Administrator.

(2) **Change of designated mortgage loan originator.** A mortgage broker or mortgage lender with a proposed change for the designated mortgage loan originator shall submit to NMLS&R the name and license number or unique identifier issued by NMLS&R for the proposed, designated mortgage loan originator.

(c) **Proposed change involving fifty percent (50%) or more new owners, officers, directors or partners.** A mortgage broker or mortgage lender with a fifty percent (50%) or more proposed change in ownership, officers, directors or partners shall submit a new license application in accordance with the SAFE Act and rules promulgated by the Administrator.

### **160:55-3-9.1. Address changes and closing requirements**

(a) At least thirty (30) days before the address of the principal place of business or the address of a branch office is changed, the mortgage broker or mortgage lender shall notify the Administrator through NMLS&R and pay the appropriate fee for an amended license.

(b) At least thirty (30) days before a ~~location~~ principal place of business or branch office is to be closed, the mortgage broker or mortgage lender shall notify the Administrator through NMLS&R.

(c) A mortgage loan originator shall notify the Administrator through NMLS&R of any address change at least thirty (30) days prior to the change of their address of record and pay the appropriate fee for an amended license.

## **SUBCHAPTER 9. ENFORCEMENT**

### **160:55-9-2. Individual proceedings**

(a) **Allegations notice.** The Administrator shall notify the person of facts or conduct that warrant the intended action, and give the person an opportunity to show compliance with all lawful requirements for the retention of the license [75:314(C)(1)].

(b) **Violations.** Where the facts indicate that the person has not complied with all lawful requirements for the retention of the license, the Administrator may initiate any authorized action.

(c) **Informal disposition.** In order to avoid the expense and time involved in formal legal proceedings, it is the policy of the Administrator to afford persons who have engaged in unlawful acts and practices an opportunity to enter into stipulations, agreed settlements, consent orders or defaults when it appears to the Administrator that such procedure fully safeguards the public interest.

The Administrator reserves the right in all matters to withhold the privilege of an informal disposition. All stipulations, agreed settlements, consent orders or defaults shall be public records.

**(d) Hearing notice.**

- (1) If the matter is to be set for hearing, the person shall be given twenty (20) ~~days~~ days' notice in writing.
- (2) The notice shall:
  - (A) state the time, place and nature of the hearing;
  - (B) state the legal authority and jurisdiction for the hearing;
  - (C) refer to the statutory sections and rules involved; and
  - (D) state the matters asserted briefly and plainly [75:309(B)(1) - (4)].

**(e) Hearing.** All parties shall be afforded the opportunity to respond and present evidence and argument on all points at issue [75:309(C)], and shall have the right to counsel [75:310(5)].

**(f) Standard of proof.** The standard of proof is clear-and-convincing evidence. Clear and convincing evidence is that measure or degree of proof which will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegation sought to be established.

**(g) Order.**

- (1) The Administrator shall issue an order within sixty (60) days from the last day of the hearing unless the period is extended by written agreement between the person and the Administrator.
- (2) The order shall:
  - (A) be in writing;
  - (B) state findings of fact that shall be limited to the evidence from the hearing unless the parties agree otherwise on the record;
  - (C) state conclusions of law;
  - (D) state the effective date; and
  - (E) be delivered in person or by certified mail with return receipt requested [75:309(H) and 312].

**(h) Impair.** A probation, suspension or revocation shall not impair or affect the obligation of any preexisting lawful contract between the person and any borrower.