

CHAPTER 58

MORTGAGE ORIGINATOR AND SERVICE LICENSING

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58.02 DEFINITIONS.

[For text of subs 1 to 21, see M.S.1998]

Subd. 22. **Servicing; servicing a residential mortgage loan.** "Servicing" or "servicing a residential mortgage loan" means through any medium or mode of communication the collection or remittance of, or the right or obligation to collect or remit for a lender, mortgagee, note owner, noteholder, or for a person's own account, payments, interest, principal, and escrow items such as insurance and taxes for property subject to a residential mortgage loan.

[For text of subs 23 to 26, see M.S.1998]

History: 1999 c 86 art 1 s 14

58.04 LICENSING REQUIREMENT.

Subdivision 1. **Residential mortgage originator licensing requirements.** (a) Beginning August 1, 1999, no person shall act as a residential mortgage originator, or make residential mortgage loans without first obtaining a license from the commissioner according to the licensing procedures provided in this chapter.

(b) The following persons are exempt from the residential mortgage originator licensing requirements:

(1) an employec of one mortgage originator licensee or one person holding a certificate of exemption;

(2) a person engaged solely in commercial mortgage activities;

(3) a person licensed as a real estate broker under chapter 82, and an individual licensee who is licensed to the broker if:

(i) the individual licensee acts only under the name, authority, and supervision of the broker to whom the licensee is licensed;

(ii) the broker obtains a certificate of exemption according to section 58.05, subdivision 2;

(iii) the broker does not collect an advance fee for its residential mortgage-related activities; and

(iv) the residential mortgage origination activities are incidental to the real estate licensee's primary activities as a real estate broker or salesperson;

(4) an individual licensed as a property/casualty or life/health insurance agent under chapter 60K if:

(i) the insurance agent acts on behalf of only one residential mortgage originator, which is in compliance with chapter 58;

(ii) the insurance agent has entered into a written contract with the mortgage originator under the terms of which the mortgage originator agrees to accept responsibility for the insurance agent's residential mortgage-related activities;

(iii) the insurance agent obtains a certificate of exemption under section 58.05, subdivision 2; and

(iv) the insurance agent does not collect an advance fee for the insurance agent's residential mortgage-related activities;

- (5) a person making no more than five residential mortgage loans with its own funds, during any 12-month period;
- (6) a financial institution as defined in section 58.02, subdivision 10;
- (7) an agency of the federal government, or of a state or municipal government;
- (8) an employee or employer pension plan making loans only to its participants;
- (9) a person acting in a fiduciary capacity, such as a trustee or receiver, as a result of a specific order issued by a court of competent jurisdiction; or
- (10) a person exempted by order of the commissioner.

[For text of subs. 2 to 4, see M.S.1998]

History: 1999 c 151 s 34

58.06 APPLICATION REQUIREMENTS FOR RESIDENTIAL MORTGAGE ORIGINATORS AND SERVICERS.

[For text of subd. 1, see M.S.1998]

Subd. 2. **Application contents.** The application must contain the name and complete business address or addresses of the license applicant. If the license applicant is a partnership, limited liability partnership, association, limited liability company, corporation, or other form of business organization, the application must contain the names and complete business addresses of each partner, member, director, and principal officer. The application must also include a description of the activities of the license applicant, in the detail and for the periods the commissioner may require. The application must also include all of the following:

- (a) an affirmation under oath that the applicant:
 - (1) will maintain competent staff and adequate staffing levels, through direct employees or otherwise, to meet the requirements of this chapter;
 - (2) will advise the commissioner of any material changes to the information submitted in the most recent application within ten days of the change;
 - (3) will advise the commissioner in writing immediately of any bankruptcy petitions filed against or by the applicant or licensee;
 - (4) is financially solvent;
 - (5) complies with federal and state tax laws;
 - (6) complies with sections 345.31 to 345.60, the Minnesota unclaimed property law; and
 - (7) is, or that a person in control of the license applicant is, at least 18 years of age;
- (b) information as to the mortgage lending, servicing, or brokering experience of the applicant and persons in control of the applicant;
- (c) information as to criminal convictions, excluding traffic violations, of persons in control of the license applicant;
- (d) whether a court of competent jurisdiction has found that the applicant or persons in control of the applicant have engaged in conduct evidencing gross negligence, fraud, misrepresentation, or deceit in performing an act for which a license is required under this chapter;
- (e) whether the applicant or persons in control of the applicant have been the subject of: an order of suspension or revocation, cease and desist order, or injunctive order, or order barring involvement in an industry or profession issued by this or another state or federal regulatory agency or by the Secretary of Housing and Urban Development within the ten-year period immediately preceding submission of the application; and
- (f) other information required by the commissioner.

History: 1999 c 151 s 35

58.07 [Repealed, 1999 c 151 s 49]

58.08 BONDS; LETTERS OF CREDIT.

Subdivision 1. **Requirement of residential mortgage originators.** A residential mortgage originator licensee engaging in servicing a residential mortgage loan shall continuously

maintain a surety bond or irrevocable letter of credit in an amount not less than \$50,000 in a form approved by the commissioner, issued by an insurance company or bank authorized to do so in this state. The bond must be available for the recovery of expenses, fines, and fees levied by the commissioner under this chapter relating to servicing, and for losses or damages incurred by borrowers as the result of a licensee's servicing-related noncompliance with the requirements of this chapter, sections 325D.43 to 325D.48, and 325F.67 to 325F.69, or breach of contract.

The bond or irrevocable letter of credit must be submitted with the originator's license application, and evidence of continued coverage must be submitted with each renewal. Any change in the bond or letter of credit must be submitted for approval by the commissioner, within ten days of its execution.

[For text of subs 2 and 3, see M.S.1998]

History: 1999 c 151 s 36