

### **286.8-032 Application for license.**

- (1) A license as a mortgage loan company or a mortgage loan broker may be obtained by filing a written application with the commissioner. The commissioner may require the electronic filing of the application and fees with the State Regulatory Registry, LLC, or its successor organization; its parent, affiliate, or operating subsidiary; or other agencies or authorities, as part of the nationwide mortgage licensing system, and consistent with the intent found in KRS 286.8-285.
- (2) The application shall:
  - (a) Be sworn to;
  - (b) State the name of the applicant and each of the applicant's affiliates and operating subsidiaries engaged in business as a mortgage loan company or a mortgage loan broker;
  - (c) State the name under which the applicant will conduct business in Kentucky;
  - (d) State the physical address of the applicant's principal office and branch or branches;
  - (e) List the name, residence, and business address of each person having an interest in the business as principal, partner, officer, trustee, and director, specifying the capacity and title of each;
  - (f) Indicate the general plan and character of the business;
  - (g) Contain a corporate surety bond or other instrument as prescribed by KRS 286.8-060;
  - (h) If applying for a mortgage loan broker license, contain a compiled financial statement of the applicant; or, if applying for a mortgage loan company license, contain a reviewed or audited financial statement of the applicant prepared by a licensed or certified public accountant;
  - (i) Include payment of the required fees; and
  - (j) Include such other information as the commissioner determines necessary.
- (3) No mortgage loan company license may be granted unless the applicant:
  - (a) Has and maintains, so long as the license is in effect, a minimum, documented funding source of one million dollars (\$1,000,000);
  - (b) Has a net worth in excess of one million dollars (\$1,000,000); or
  - (c) Has and maintains a net worth in excess of one hundred thousand dollars (\$100,000) and certifies to the commissioner that the company will not make or purchase loans secured by mortgages on residential real property located in Kentucky so long as the license is in effect.
- (4) A license issued to a mortgage loan company or a mortgage loan broker shall entitle all officers and employees of the person, if a corporation, and all members, partners, trustees, and employees, if an association, partnership, natural person, or trust, to engage in the mortgage loan business pursuant to this subtitle, subject to the applicable requirements of this subtitle.
- (5) If a licensee desires to establish a branch, the licensee shall file an application

with the commissioner that includes the physical location and telephone number of the branch, the name of the prospective manager, the anticipated opening date, and any other information requested by the commissioner.

- (6) Each applicant for a mortgage loan broker license shall have at least one (1) managing principal at all times. This managing principal shall provide the commissioner sufficient proof of a minimum of two (2) years' experience working in the mortgage industry. The commissioner shall determine from the application whether an applicant has sufficient experience to meet this requirement. Each mortgage loan broker shall obtain written approval from the commissioner prior to a change of managing principal.
- (7) All applicants for a mortgage loan broker license shall have successfully completed an educational training course, approved by the department, of not less than thirty (30) classroom hours' duration. Applicants who have held a mortgage loan broker license for at least one (1) year in the past five (5) years shall be exempt from this requirement. This section shall not apply to renewals of existing licenses. Approval of an applicant for a mortgage loan broker license under this subsection shall be conditioned on the applicant establishing that the district, state, or territory from which the applicant applies, resides, or performs the primary portion of his or her mortgage business has rules, regulations, or other provisions which by reciprocity or comity are at least equivalent to this subsection.
- (8) The application for a mortgage loan broker and mortgage loan company license shall state:
  - (a) The address of the physical location where the business is to be located in compliance with KRS 286.8-250 and whether such location is a residence. The physical location where the mortgage lending process is conducted shall have a street address. A post office box or similar designation shall not meet the requirements of this subsection. The physical location shall be accessible to the general public as a place of business, unless the physical location is a residence and proof of residence has been submitted as required by this section. Photographs of the exterior, interior, and exterior sign of each location shall accompany the application. If the physical location is not a residence and is leased, the lease shall be for a minimum term of one (1) year. A copy of the lease and the names of all employees conducting business under the lease shall accompany the application. If the physical location is a residence, proof that the location is a residence, in a form as required by the commissioner, shall accompany the application. Proof of residence shall confirm that the residence is owned or leased by the mortgage loan broker, mortgage loan company, or its employees or owners and that the residence is the main residence of any such persons. Proof of physical location shall include proof that local zoning requirements are satisfied.
  - (b) A mortgage loan company or mortgage loan broker shall notify the commissioner of a change in the location or name of its business or the addition of any branch or branches in writing at least ten (10) days prior to the change.
- (9) On or after January 1, 2009, every mortgage loan company and mortgage loan

broker shall maintain an agent for service of process in the Commonwealth. The name, address, telephone number, and electronic mail address of the agent for service of process shall be filed with the application. The commissioner shall be notified in writing at least five (5) days prior to any change in the status of an agent for service of process.

- (10) The commissioner may deem an application abandoned when an applicant fails to provide or respond to a request for additional information.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 24, sec. 765, effective July 15, 2010. -- Amended 2009 Ky. Acts ch. 104, sec. 5, effective June 25, 2009. -- Amended 2008 Ky. Acts ch. 175, sec. 7, effective April 24, 2008. -- Amended 2006 Ky. Acts ch. 218, sec. 3, effective July 12, 2006. -- Amended 2003 Ky. Acts ch. 64, sec. 4, effective June 24, 2003. -- Amended 1998 Ky. Acts ch. 197, sec. 3, effective July 15, 1998. -- Created 1986 Ky. Acts ch. 461, sec. 4, effective July 15, 1986.

**Formerly codified as** KRS 294.032.

**Legislative Research Commission Note** (7/12/2006). This section was amended in 2006 Ky. Acts ch. 218. In that same session, 2006 Ky. Acts ch. 247, sec. 38 required that all sections of KRS Chapters 287, 288, 290, 291, 294, 366, 366A, and 368 be renumbered as sections of a single KRS chapter entitled the "Kentucky Financial Services Code." Therefore, the Statute Reviser, acting under KRS 7.136(1), has changed the number of this section and codified it as a section of KRS Chapter 286. In addition, KRS references have been adjusted to conform with the renumbering.