

(iii) an institution regulated by the Farm Credit Administration; and

(B) is registered with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry.

(9) Residential mortgage loan

The term “residential mortgage loan” means any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling (as defined in section 1602(v)¹ of title 15) or residential real estate upon which is constructed or intended to be constructed a dwelling (as so defined).

(10) Director

The term “Director” means the Director of the Bureau of Consumer Financial Protection.

(11) State

The term “State” means any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

(12) State-licensed loan originator

The term “State-licensed loan originator” means any individual who—

- (A) is a loan originator;
- (B) is not an employee of—
 - (i) a depository institution;
 - (ii) a subsidiary that is—
 - (I) owned and controlled by a depository institution; and
 - (II) regulated by a Federal banking agency; or

(iii) an institution regulated by the Farm Credit Administration; and

(C) is licensed by a State or by the Director under section 5107 of this title and registered as a loan originator with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry.

(13) Unique identifier

(A) In general

The term “unique identifier” means a number or other identifier that—

- (i) permanently identifies a loan originator;
- (ii) is assigned by protocols established by the Nationwide Mortgage Licensing System and Registry and the Bureau to facilitate electronic tracking of loan originators and uniform identification of, and public access to, the employment history of and the publicly adjudicated disciplinary and enforcement actions against loan originators; and

(iii) shall not be used for purposes other than those set forth under this chapter.

(B) Responsibility of States

To the greatest extent possible and to accomplish the purpose of this chapter, States

shall use unique identifiers in lieu of social security numbers.

(Pub. L. 110-289, div. A, title V, §1503, July 30, 2008, 122 Stat. 2811; Pub. L. 111-203, title X, §1100(2)-(4), July 21, 2010, 124 Stat. 2106.)

REFERENCES IN TEXT

Section 1602(v) of title 15, referred to in par. (9), was redesignated section 1602(w) of title 15 by Pub. L. 111-203, title X, §1100A(1)(A), July 21, 2010, 124 Stat. 2107.

AMENDMENTS

2010—Pub. L. 111-203, §1100(4)(A), redesignated pars. (2) to (12) as (3) to (13), respectively.

Par. (1). Pub. L. 111-203, §1100(4)(B), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: “The term ‘Federal banking agencies’ means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Deposit Insurance Corporation.”

Par. (2). Pub. L. 111-203, §1100(4)(B), added par. (2). Former par. (2) redesignated (3).

Par. (5). Pub. L. 111-203, §1100(3), substituted “Director” for “Secretary”.

Par. (10). Pub. L. 111-203, §1100(4)(C), added par. (10) and struck out former par. (10). Prior to amendment, text read as follows: “The term ‘Secretary’ means the Secretary of Housing and Urban Development.”

Par. (11)(C). Pub. L. 111-203, §1100(3), substituted “Director” for “Secretary”.

Par. (12)(A)(ii). Pub. L. 111-203, §1100(2), substituted “Bureau” for “Federal banking agencies”.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 5103. License or registration required

(a) In general

Subject to the existence of a licensing or registration regime, as the case may be, an individual may not engage in the business of a loan originator without first—

- (1) obtaining, and maintaining annually—
 - (A) a registration as a registered loan originator; or
 - (B) a license and registration as a State-licensed loan originator; and
- (2) obtaining a unique identifier.

(b) Loan processors and underwriters

(1) Supervised loan processors and underwriters

A loan processor or underwriter who does not represent to the public, through advertising or other means of communicating or providing information (including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items), that such individual can or will perform any of the activities of a loan originator shall not be required to be a State-licensed loan originator.

(2) Independent contractors

An independent contractor may not engage in residential mortgage loan origination ac-

¹ See References in Text note below.

tivities as a loan processor or underwriter unless such independent contractor is a State-licensed loan originator.

(Pub. L. 110-289, div. A, title V, §1504, July 30, 2008, 122 Stat. 2814.)

§ 5104. State license and registration application and issuance

(a) Background checks

In connection with an application to any State for licensing and registration as a State-licensed loan originator, the applicant shall, at a minimum, furnish to the Nationwide Mortgage Licensing System and Registry information concerning the applicant's identity, including—

(1) fingerprints for submission to the Federal Bureau of Investigation, and any governmental agency or entity authorized to receive such information for a State and national criminal history background check; and

(2) personal history and experience, including authorization for the System to obtain—

(A) an independent credit report obtained from a consumer reporting agency described in section 1681a(p) of title 15; and

(B) information related to any administrative, civil or criminal findings by any governmental jurisdiction.

(b) Issuance of license

The minimum standards for licensing and registration as a State-licensed loan originator shall include the following:

(1) The applicant has never had a loan originator license revoked in any governmental jurisdiction.

(2) The applicant has not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court—

(A) during the 7-year period preceding the date of the application for licensing and registration; or

(B) at any time preceding such date of application, if such felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering.

(3) The applicant has demonstrated financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a determination that the loan originator will operate honestly, fairly, and efficiently within the purposes of this chapter.

(4) The applicant has completed the pre-licensing education requirement described in subsection (c).

(5) The applicant has passed a written test that meets the test requirement described in subsection (d).

(6) The applicant has met either a net worth or surety bond requirement, or paid into a State fund, as required by the State pursuant to section 5107(d)(6) of this title.

(c) Pre-licensing education of loan originators

(1) Minimum educational requirements

In order to meet the pre-licensing education requirement referred to in subsection (b)(4), a person shall complete at least 20 hours of education approved in accordance with paragraph (2), which shall include at least—

(A) 3 hours of Federal law and regulations;
(B) 3 hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues; and

(C) 2 hours of training related to lending standards for the nontraditional mortgage product marketplace.

(2) Approved educational courses

For purposes of paragraph (1), pre-licensing education courses shall be reviewed, and approved by the Nationwide Mortgage Licensing System and Registry.

(3) Limitation and standards

(A) Limitation

To maintain the independence of the approval process, the Nationwide Mortgage Licensing System and Registry shall not directly or indirectly offer pre-licensure educational courses for loan originators.

(B) Standards

In approving courses under this section, the Nationwide Mortgage Licensing System and Registry shall apply reasonable standards in the review and approval of courses.

(d) Testing of loan originators

(1) In general

In order to meet the written test requirement referred to in subsection (b)(5), an individual shall pass, in accordance with the standards established under this subsection, a qualified written test developed by the Nationwide Mortgage Licensing System and Registry and administered by an approved test provider.

(2) Qualified test

A written test shall not be treated as a qualified written test for purposes of paragraph (1) unless the test adequately measures the applicant's knowledge and comprehension in appropriate subject areas, including—

(A) ethics;

(B) Federal law and regulation pertaining to mortgage origination;

(C) State law and regulation pertaining to mortgage origination;

(D) Federal and State law and regulation, including instruction on fraud, consumer protection, the nontraditional mortgage marketplace, and fair lending issues.

(3) Minimum competence

(A) Passing score

An individual shall not be considered to have passed a qualified written test unless the individual achieves a test score of not less than 75 percent correct answers to questions.

(B) Initial retests

An individual may retake a test 3 consecutive times with each consecutive taking occurring at least 30 days after the preceding test.

(C) Subsequent retests

After failing 3 consecutive tests, an individual shall wait at least 6 months before taking the test again.