

Subsec. (f). Pub. L. 111-203, §1100(6)(B), added subsec. (f).

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.

§ 5108. Backup authority to establish a nationwide mortgage licensing and registry system

If at any time the Director determines that the Nationwide Mortgage Licensing System and Registry is failing to meet the requirements and purposes of this chapter for a comprehensive licensing, supervisory, and tracking system for loan originators, the Director shall establish and maintain such a system to carry out the purposes of this chapter and the effective registration and regulation of loan originators.

(Pub. L. 110-289, div. A, title V, §1509, July 30, 2008, 122 Stat. 2819; Pub. L. 111-203, title X, §1100(3), July 21, 2010, 124 Stat. 2106.)

AMENDMENTS

2010—Pub. L. 111-203 substituted “Director” for “Secretary” in two places.

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.

§ 5109. Fees

The Bureau, the Farm Credit Administration, and the Nationwide Mortgage Licensing System and Registry may charge reasonable fees to cover the costs of maintaining and providing access to information from the Nationwide Mortgage Licensing System and Registry, to the extent that such fees are not charged to consumers for access to such system and registry.

(Pub. L. 110-289, div. A, title V, §1510, as added Pub. L. 111-203, title X, §1100(7), July 21, 2010, 124 Stat. 2107.)

PRIOR PROVISIONS

A prior section 5109, Pub. L. 110-289, div. A, title V, §1510, July 30, 2008, 122 Stat. 2819, which related to fees, was repealed by Pub. L. 111-203, title X, §1100(7), July 21, 2010, 124 Stat. 2107.

EFFECTIVE DATE

Section effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as an Effective Date of 2010 Amendment note under section 552a of Title 5, Government Organization and Employees.

§ 5110. Background checks of loan originators

(a) Access to records

Notwithstanding any other provision of law, in providing identification and processing functions, the Attorney General shall provide access to all criminal history information to the appropriate State officials responsible for regulating State-licensed loan originators to the extent criminal history background checks are required under the laws of the State for the licensing of such loan originators.

(b) Agent

For the purposes of this section and in order to reduce the points of contact which the Fed-

eral Bureau of Investigation may have to maintain for purposes of subsection (a), the Conference of State Bank Supervisors or a wholly owned subsidiary may be used as a channeling agent of the States for requesting and distributing information between the Department of Justice and the appropriate State agencies.

(Pub. L. 110-289, div. A, title V, §1511, July 30, 2008, 122 Stat. 2819.)

§ 5111. Confidentiality of information

(a) System confidentiality

Except as otherwise provided in this section, any requirement under Federal or State law regarding the privacy or confidentiality of any information or material provided to the Nationwide Mortgage Licensing System and Registry or a system established by the Director under section 5108 of this title, and any privilege arising under Federal or State law (including the rules of any Federal or State court) with respect to such information or material, shall continue to apply to such information or material after the information or material has been disclosed to the system. Such information and material may be shared with all State and Federal regulatory officials with mortgage industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by Federal and State laws.

(b) Nonapplicability of certain requirements

Information or material that is subject to a privilege or confidentiality under subsection (a) shall not be subject to—

(1) disclosure under any Federal or State law governing the disclosure to the public of information held by an officer or an agency of the Federal Government or the respective State; or

(2) subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the Nationwide Mortgage Licensing System and Registry or the Director with respect to such information or material, the person to whom such information or material pertains waives, in whole or in part, in the discretion of such person, that privilege.

(c) Coordination with other law

Any State law, including any State open record law, relating to the disclosure of confidential supervisory information or any information or material described in subsection (a) that is inconsistent with subsection (a) shall be superseded by the requirements of such provision to the extent State law provides less confidentiality or a weaker privilege.

(d) Public access to information

This section shall not apply with respect to the information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, loan originators that is included in Nationwide Mortgage Licensing System and Registry for access by the public.

(Pub. L. 110-289, div. A, title V, §1512, July 30, 2008, 122 Stat. 2820; Pub. L. 111-203, title X, §1100(3), July 21, 2010, 124 Stat. 2106.)

AMENDMENTS

2010—Subsecs. (a), (b)(2). Pub. L. 111-203 substituted “Director” for “Secretary”.

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.

§ 5112. Liability provisions

The Bureau, any State official or agency, or any organization serving as the administrator of the Nationwide Mortgage Licensing System and Registry or a system established by the Director under section 5108 of this title, or any officer or employee of any such entity, shall not be subject to any civil action or proceeding for monetary damages by reason of the good faith action or omission of any officer or employee of any such entity, while acting within the scope of office or employment, relating to the collection, furnishing, or dissemination of information concerning persons who are loan originators or are applying for licensing or registration as loan originators.

(Pub. L. 110-289, div. A, title V, §1513, as added Pub. L. 111-203, title X, §1100(8), July 21, 2010, 124 Stat. 2107.)

PRIOR PROVISIONS

A prior section 5112, Pub. L. 110-289, div. A, title V, §1513, July 30, 2008, 122 Stat. 2820, which barred liability for good faith actions or omissions by certain entities’ officers or employees, was repealed by Pub. L. 111-203, title X, §1100(8), July 21, 2010, 124 Stat. 2107.

EFFECTIVE DATE

Section effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as an Effective Date of 2010 Amendment note under section 552a of Title 5, Government Organization and Employees.

§ 5113. Enforcement by the Bureau**(a) Summons authority**

The Director may—

(1) examine any books, papers, records, or other data of any loan originator operating in any State which is subject to a licensing system established by the Director under section 5107 of this title; and

(2) summon any loan originator referred to in paragraph (1) or any person having possession, custody, or care of the reports and records relating to such loan originator, to appear before the Director or any delegate of the Director at a time and place named in the summons and to produce such books, papers, records, or other data, and to give testimony, under oath, as may be relevant or material to an investigation of such loan originator for compliance with the requirements of this chapter.

(b) Examination authority**(1) In general**

If the Director establishes a licensing system under section 5107 of this title for any State, the Director shall appoint examiners for the purposes of administering such section.

(2) Power to examine

Any examiner appointed under paragraph (1) shall have power, on behalf of the Director, to

make any examination of any loan originator operating in any State which is subject to a licensing system established by the Director under section 5107 of this title whenever the Director determines an examination of any loan originator is necessary to determine the compliance by the originator with this chapter.

(3) Report of examination

Each examiner appointed under paragraph (1) shall make a full and detailed report of examination of any loan originator examined to the Director.

(4) Administration of oaths and affirmations; evidence

In connection with examinations of loan originators operating in any State which is subject to a licensing system established by the Director under section 5107 of this title, or with other types of investigations to determine compliance with applicable law and regulations, the Director and examiners appointed by the Director may administer oaths and affirmations and examine and take and preserve testimony under oath as to any matter in respect to the affairs of any such loan originator.

(5) Assessments

The cost of conducting any examination of any loan originator operating in any State which is subject to a licensing system established by the Director under section 5107 of this title shall be assessed by the Director against the loan originator to meet the Secretary’s¹ expenses in carrying out such examination.

(c) Cease and desist proceeding**(1) Authority of Director**

If the Director finds, after notice and opportunity for hearing, that any person is violating, has violated, or is about to violate any provision of this chapter, or any regulation thereunder, with respect to a State which is subject to a licensing system established by the Director under section 5107 of this title, the Director may publish such findings and enter an order requiring such person, and any other person that is, was, or would be a cause of the violation, due to an act or omission the person knew or should have known would contribute to such violation, to cease and desist from committing or causing such violation and any future violation of the same provision, rule, or regulation. Such order may, in addition to requiring a person to cease and desist from committing or causing a violation, require such person to comply, or to take steps to effect compliance, with such provision or regulation, upon such terms and conditions and within such time as the Director may specify in such order. Any such order may, as the Director deems appropriate, require future compliance or steps to effect future compliance, either permanently or for such period of time as the Director may specify, with such provision or regulation with respect to any loan originator.

¹ So in original. Probably should be “Director’s”.