

(4) The State loan originator supervisory authority has a process in place for challenging information contained in the Nationwide Mortgage Licensing System and Registry.

(5) The State loan originator supervisory authority has established a mechanism to assess civil money penalties for individuals acting as mortgage originators in their State without a valid license or registration.

(6) The State loan originator supervisory authority has established minimum net worth or surety bonding requirements that reflect the dollar amount of loans originated by a residential mortgage loan originator, or has established a recovery fund paid into by the loan originators.

(e) Temporary extension of period

The Director may extend, by not more than 24 months, the 1-year or 2-year period, as the case may be, referred to in subsection (a) for the licensing of loan originators in any State under a State licensing law that meets the requirements of sections 5104 and 5105 of this title and subsection (d) if the Director determines that such State is making a good faith effort to establish a State licensing law that meets such requirements, license mortgage originators under such law, and register such originators with the Nationwide Mortgage Licensing System and Registry.

(f) Regulation authority

(1) In general

The Bureau is authorized to promulgate regulations setting minimum net worth or surety bond requirements for residential mortgage loan originators and minimum requirements for recovery funds paid into by loan originators.

(2) Considerations

In issuing regulations under paragraph (1), the Bureau shall take into account the need to provide originators adequate incentives to originate affordable and sustainable mortgage loans, as well as the need to ensure a competitive origination market that maximizes consumer access to affordable and sustainable mortgage loans.

(Pub. L. 110-289, div. A, title V, §1508, July 30, 2008, 122 Stat. 2818; Pub. L. 111-203, title X, §1100(3), (6), July 21, 2010, 124 Stat. 2106.)

AMENDMENTS

2010—Pub. L. 111-203, §1100(3), (6)(A), inserted section catchline, struck out former section catchline which read “Secretary of Housing and Urban Development backup authority to establish a loan originator licensing system”, and substituted “Director” for “Secretary” wherever appearing in text.

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 and other financial service providers to the extent criminal history background checks are required under the laws of the State for the licensing of such loan originators or other financial service providers.

(b) Agent

For the purposes of this section and in order to reduce the points of contact which the Federal 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; Pub. L. 114-94, div. G, title LXXXVIII, §88002, Dec. 4, 2015, 129 Stat. 1799.)

AMENDMENTS

2015—Subsec. (a). Pub. L. 114-94 inserted “and other financial service providers” after “State-licensed loan originators” and “or other financial service providers” before period at end.

§ 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 or financial services 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; Pub. L. 114-113, div. O, title VII, §703, Dec. 18, 2015, 129 Stat. 3025.)

AMENDMENTS

2015—Subsec. (a). Pub. L. 114-113 inserted “or financial services” before “industry”.

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; amended Pub. L. 115-174, title I, §106(c), May 24, 2018, 132 Stat. 1304.)

AMENDMENT OF SECTION

Pub. L. 115-174, title I, §106(c), (d), May 24, 2018, 132 Stat. 1304, provided that, effective 18 months after May 24, 2018, this section is amended by striking “persons who are loan originators or are applying for licensing or registration as loan originators.” and inserting “persons who—

“(1) have applied, are applying, or are licensed or registered through the Nationwide Mortgage Licensing System and Registry; and

“(2) work in an industry with respect to which persons were licensed or registered through the Nationwide Mortgage Licensing System and Registry on May 24, 2018.”

See 2018 Amendment note below.

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.

AMENDMENTS

2018—Pub. L. 115-174 substituted “persons who—” for “persons who are loan originators or are applying for licensing or registration as loan originators.” and added pars. (1) and (2).

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115-174, title I, §106(d), May 24, 2018, 132 Stat. 1304, provided that: “This section [enacting section 5117 of this title and amending this section] and the amendments made by this section shall take effect on the date that is 18 months after the date of enactment of this Act [May 24, 2018].”

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.