

§ 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 activities 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