

**58.04 LICENSING REQUIREMENT.**

Subdivision 1. **Residential mortgage originator licensing requirements.** (a) No person shall act as a residential mortgage originator, or make residential mortgage loans without first obtaining a license from the commissioner according to the licensing procedures provided in this chapter.

(b) A licensee must be either a partnership, limited liability partnership, association, limited liability company, corporation, or other form of business organization, and must have and maintain at all times one of the following: approval as a mortgagee by either the federal Department of Housing and Urban Development or the Federal National Mortgage Association; a minimum net worth, net of intangibles, of at least \$250,000; or a surety bond or irrevocable letter of credit in the amount of \$50,000. Net worth, net of intangibles, must be calculated in accordance with generally accepted accounting principles.

(c) The following persons are exempt from the residential mortgage originator licensing requirements:

- (1) a person who is not in the business of making residential mortgage loans and who makes no more than three such loans, with its own funds, during any 12-month period;
- (2) a financial institution as defined in section 58.02, subdivision 10;
- (3) an agency of the federal government, or of a state or municipal government;
- (4) an employee or employer pension plan making loans only to its participants;
- (5) a person acting in a fiduciary capacity, such as a trustee or receiver, as a result of a specific order issued by a court of competent jurisdiction; or
- (6) a person exempted by order of the commissioner.

Subd. 2. **Residential mortgage servicer licensing requirements.** (a) Beginning August 1, 1999, no person shall engage in activities or practices that fall within the definition of "servicing a residential mortgage loan" under section 58.02, subdivision 22, without first obtaining a license from the commissioner according to the licensing procedures provided in this chapter.

(b) The following persons are exempt from the residential mortgage servicer licensing requirements:

- (1) a person licensed as a residential mortgage originator;
- (2) an employee of one licensee or one person holding a certificate of exemption based on an exemption under this subdivision;

(3) a person servicing loans made with its own funds, if no more than three such loans are made in any 12-month period;

(4) a financial institution as defined in section 58.02, subdivision 10;

(5) an agency of the federal government, or of a state or municipal government;

(6) an employee or employer pension plan making loans only to its participants;

(7) a person acting in a fiduciary capacity, such as a trustee or receiver, as a result of a specific order issued by a court of competent jurisdiction; or

(8) a person exempted by order of the commissioner.

Subd. 3. **Conducting business under license.** No person required to be licensed under this chapter may, without a license, do business under a name or title or circulate or use advertising or make representations or give information to a person, that indicates or reasonably implies activity within the scope of this chapter.

No person licensed under this chapter may do business under more than one name or title.

Subd. 4. **Applicability to banks and credit unions.** Except for sections 58.13 and 58.137, subdivisions 2 and 3, this chapter does not apply to a bank, savings bank, savings association, or credit union, or to any subsidiary of any of them, that is subject to supervision by either a federal regulatory agency or the commissioner.

**History:** 1998 c 343 art 1 s 4; 1999 c 151 s 34; 2000 c 427 s 11-13; 2002 c 342 s 7; 2007 c 57 art 3 s 13