CHAPTER 58A

INDIVIDUAL MORTGAGE ORIGINATOR LICENSING

58A.01 TITLE.
58A.02 DEFINITIONS.
58A.03 LICENSE AND REGISTRATION REQUIRED.
58A.04 STATE LICENSE AND REGISTRATION APPLICATION AND ISSUANCE.
58A.045 TERM OF LICENSE AND FEES.
58A.05 ISSUANCE OF LICENSE.
58A.06 PRELICENSING AND RELICENSING EDUCATION OF LOAN ORIGINATORS.
58A.07 TESTING OF LOAN ORIGINATORS.
58A.08 STANDARDS FOR LICENSE RENEWAL.
58A.09 CONTINUING EDUCATION FOR MORTGAGE LOAN ORIGINATORS.
58A.10 AUTHORITY TO REQUIRE LICENSE.
58A.11 NATIONWIDE MULTISTATE LICENSING SYSTEM AND REGISTRY INFORMATION CHALLENGE PROCESS.
58A.12 ENFORCEMENT AUTHORITIES, VIOLATIONS, AND PENALTIES.
58A.13 SURETY BOND REQUIRED.
58A.14 CONFIDENTIALITY.
58A.15 INVESTIGATION AND EXAMINATION AUTHORITY.
58A.16 PROHIBITED ACTS AND PRACTICES.
58A.17 MORTGAGE CALL REPORTS.
58A.18 REPORT TO NATIONWIDE MULTISTATE LICENSING SYSTEM AND REGISTRY.
58A.20 UNIQUE IDENTIFIER SHOWN.
58A.22 INCORPORATION BY REFERENCE.

58A.01 TITLE.

This chapter may be cited as the "Minnesota Secure and Fair Enforcement for Mortgage Licensing Act of 2010" or "Minnesota S.A.F.E. Mortgage Licensing Act of 2010."

History: *2010 c 347 art 4 s 1*

58A.02 DEFINITIONS.

Subdivision 1. **Application.** For purposes of this chapter, the definitions in subdivisions 2 to 15 have the meanings given them.

Subd. 2. **Depository institution.** "Depository institution" has the meaning given in United States Code, title 12, section 1813, and includes a credit union.

Subd. 3. **Federal banking agencies.** "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.

Subd. 4. **Immediate family member.** "Immediate family member" means a spouse, child, sibling, a parent, grandparent, or grandchild. This includes stepparents, stepchildren, stepsiblings, and adoptive relationships.

Subd. 5. **Individual.** "Individual" means a natural person.

Subd. 6. **Loan processor or underwriter.** "Loan processor or underwriter" means an individual who performs clerical or support duties as an employee at the direction of and subject to the supervision and instruction of a person licensed or exempt from licensing under chapter 58. For purposes of this subdivision, the term "clerical or support duties" may include after the receipt of an application:

(1) the receipt, collection, distribution, and analysis of information common for the processing or underwriting of a residential mortgage loan; and

(2) communicating with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that the communication does not include offering or negotiating loan rates or terms, or counseling consumers about residential mortgage loan rates or terms.

Subd. 7. **Mortgage loan originator.** "Mortgage loan originator":

(1) means an individual who for compensation or gain or in the expectation of compensation or gain:

(i) takes a residential mortgage loan application; or

(ii) offers or negotiates terms of a residential mortgage loan;

(2) does not include an individual engaged solely as a loan processor or underwriter except as otherwise provided in section 58A.03, subdivision 3;

(3) does not include a person or entity that only performs real estate brokerage activities and is licensed or registered according to Minnesota law, unless the person or entity is compensated by a lender, a mortgage broker, or other mortgage loan originator or by an agent of the lender, mortgage broker, or other mortgage loan originator;

(4) does not include a person or entity solely involved in extensions of credit relating to timeshare plans, as that term is defined in United States Code, title 11, section 101(53D); and

(5) does not include a person who merely assists, without advising, the consumer in locating or understanding a loan application, and does not do anything that would be considered to be acting as a mortgage loan originator under federal or state laws. This clause is subject to final approval by the United States Department of Housing and Urban Development, and is severable to the extent that the department determines that it is not compliant with federal law.

Subd. 8. **Nationwide Multistate Licensing System and Registry.** "Nationwide Multistate Licensing System and Registry" means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of licensed mortgage loan originators.

Subd. 9. **Nontraditional mortgage product.** "Nontraditional mortgage product" means a mortgage product other than a 30-year fixed rate mortgage loan.

Subd. 9a. **Offers or negotiates terms of a residential mortgage loan for compensation or gain.** "Offers or negotiates terms of a residential mortgage loan for compensation or gain" means an individual:

(1)(i) presents for acceptance by a borrower or prospective borrower residential mortgage loan terms;

(ii) communicates directly or indirectly with a borrower or prospective borrower for the purpose of reaching an understanding about prospective residential mortgage loan terms; or

(iii) recommends, refers, or steers a borrower to a particular lender or set of residential mortgage loan terms, in accordance with a duty to or incentive from any person other than the borrower or prospective borrower; and

(2) receives or expects to receive payment of money or anything of value in connection with the activities described in clause (1) or as a result of any residential mortgage loan terms entered into as a result of such activities.

This subdivision is subject to final approval by the United States Department of Housing and Urban Development, and is severable to the extent that the department determines that it is not compliant with federal law.

Subd. 10. **Person.** "Person" means a natural person, corporation, company, limited liability company, partnership, or association.

Subd. 11. **Real estate brokerage activity.** "Real estate brokerage activity" means an activity that involves offering or providing real estate brokerage services to the public, including:

(1) acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property;

(2) bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property;

(3) negotiating, on behalf of a party, a portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property other than in connection with providing financing with respect to the transaction;

(4) engaging in an activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law; and

(5) offering to engage in any activity, or act in any capacity, described in clause (1), (2), (3), or (4).

Subd. 12. **Registered mortgage loan originator.** "Registered mortgage loan originator" means an individual who:

(1) meets the definition of mortgage loan originator and is an employee of:

(i) a depository institution;

(ii) a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency; or

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

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

Subd. 13. **Residential mortgage loan.** "Residential mortgage loan" means a 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 United States Code, title 15, section 1602(w), or residential real estate upon which a dwelling is constructed or intended to be constructed.

Subd. 14. **Residential real estate.** "Residential real estate" means real property located in Minnesota, upon which a dwelling is constructed or is intended to be constructed.

Subd. 14a. **Takes a residential mortgage loan application.** "Takes a residential mortgage loan application" means the individual receives a residential mortgage loan application for the purpose of deciding, or influencing or soliciting the decision of another, whether to extend an offer of residential mortgage loan terms to a borrower or prospective borrower, or to accept the terms offered by a borrower or prospective borrower in response to a solicitation, whether the application is received directly or indirectly from the borrower or prospective borrower. This subdivision is subject to final approval by the United States Department of Housing and Urban Development, and is severable to the extent that the department determines that it is not compliant with federal law.

Subd. 15. **Unique identifier.** "Unique identifier" means a number or other identifier assigned by protocols established by the Nationwide Multistate Licensing System and Registry.

History: *2010 c 347 art 4 s 2; 2018 c 104 s 3; 2020 c 80 art 1 s 11*

58A.03 LICENSE AND REGISTRATION REQUIRED.

Subdivision 1. **Generally.** An individual, unless specifically exempted from this chapter under subdivision 2, shall not engage in the business of a mortgage loan originator with respect to a dwelling located in this state without first obtaining and maintaining a license under this chapter. An individual may not engage in the mortgage loan business unless the individual is employed and supervised by an entity which is either licensed or exempt from licensing under chapter 58. A licensed mortgage loan originator must register with and maintain a valid unique identifier issued by the Nationwide Multistate Licensing System and Registry.

Subd. 2. **Exemptions.** (a) The following are exempt from this chapter:

(1) a registered mortgage loan originator, when acting for an entity described in section 58A.02, subdivision 12, clause (1);

(2) an individual who offers or negotiates terms of a residential mortgage loan with or on behalf of an immediate family member of the individual;

(3) an individual who offers or negotiates terms of a residential mortgage loan secured by a dwelling that served as the individual's residence;

(4) a licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of the lender, mortgage broker, or other mortgage loan originator;

(5) an employee of a nonprofit organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, or a local unit of government, that is not otherwise engaged in the mortgage loan business, engaged in the financing of housing for low- and moderate-income households or housing counseling under programs designed specifically for those purposes, to the extent exempted by the commissioner by rule, advisory ruling, or interpretation, after taking into consideration any law, rule, advisory ruling, or interpretation by the United States Department of Housing and Urban Development;

(6) an employee of a manufactured home dealer, as defined in section 327B.01, subdivision 7 or 11b; or an employee of a manufactured home salesperson, as defined in section 327B.01, subdivision 19; that:

(i) performs only clerical or support duties in connection with assisting a consumer in filling out a residential mortgage loan application but does not in any way offer or negotiate loan terms, or hold themselves out as a housing counselor;

(ii) does not receive any direct or indirect compensation or gain from any individual or company for assisting consumers with a residential mortgage loan application, in excess of the customary salary or commission from the employer in connection with the sales transaction; and

(iii) discloses to the borrower in writing:

(A) if a corporate affiliation with a lender exists;

(B) if a corporate affiliation with a lender exists, that the lender cannot guarantee the lowest or best terms available and the consumer has the right to choose their lender; and

(C) if a corporate affiliation with a lender exists, the name of at least one unaffiliated lender; and

(7) an individual who offers or negotiates the terms of a residential mortgage loan, when acting under the temporary authority granted in United States Code, title 12, section 5117, as amended by section 106 of the Economic Growth, Regulatory Relief, and Consumer Protection Act, Public Law 115-174.

(b) For the purposes of this subdivision, "housing counselor" means an individual who provides assistance and guidance about residential mortgage loan terms including rates, fees, or other costs.

(c) The disclosures required under paragraph (a), clause (6), item (iii), must be made on a one-page form prescribed by the commissioner and developed in consultation with the Manufactured and Modular Home Association. The form must be posted on the department's website.

Subd. 3. **Independent contractor loan processors or underwriters.** A loan processor or underwriter who is an independent contractor may not engage in the activities of a loan processor or underwriter unless the independent contractor loan processor or underwriter obtains and maintains a license under subdivision 1. An independent contractor loan processor or underwriter licensed as a mortgage loan originator must have and maintain a valid unique identifier issued by the Nationwide Multistate Licensing System and Registry.

History: *2010 c 347 art 4 s 3; 2018 c 104 s 3; 2019 c 58 s 2; 2019 c 59 s 2*

58A.04 STATE LICENSE AND REGISTRATION APPLICATION AND ISSUANCE.

Subdivision 1. **Application form.** An applicant for a license shall apply in a form as prescribed by the commissioner. The form must contain content as set forth by rule, instruction, or procedure of the commissioner and may be changed or updated as necessary by the commissioner in order to carry out the purposes of this chapter.

Subd. 2. **Commissioner may establish relationships or contracts.** In order to fulfill the purposes of this chapter, the commissioner is authorized to establish relationships or contracts with the Nationwide Multistate Licensing System and Registry or other entities designated by the Nationwide Multistate Licensing System and Registry to collect and maintain records and process transaction fees or other fees related to licensees or other persons subject to this chapter.

Subd. 3. **Waive or modify requirements.** For the purpose of participating in the Nationwide Multistate Licensing System and Registry, the commissioner is authorized to waive or modify, in whole or in part, by rule or order, any or all of the requirements of this chapter and to establish new requirements as reasonably necessary to participate in the Nationwide Multistate Licensing System and Registry.

Subd. 4. **Background checks.** In connection with an application for licensing as a mortgage loan originator, the applicant shall, at a minimum, furnish to the Nationwide Multistate Licensing System and Registry information concerning the applicant's identity, including:

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

(2) personal history and experience in a form prescribed by the Nationwide Multistate Licensing System and Registry, including the submission of authorization for the Nationwide Multistate Licensing System and Registry and the commissioner to obtain:

(i) an independent credit report obtained from a consumer reporting agency described in United States Code, title 15, section 1681a(p); and

(ii) information related to administrative, civil, or criminal findings by a governmental jurisdiction.

Subd. 5. **Agent for purposes of requesting and distributing criminal information.** 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 subdivision 4, clauses (1) and (2), the commissioner may use the Nationwide Multistate Licensing System and Registry as a channeling agent for requesting information from and distributing information to the Department of Justice or any governmental agency.

Subd. 6. **Agent for purposes of requesting and distributing noncriminal information.** For the purposes of this section and in order to reduce the points of contact which the commissioner may have to maintain for purposes of subdivision 4, clause (2), the commissioner may use the Nationwide Multistate Licensing System and Registry as a channeling agent for requesting and distributing information to and from any source so directed by the commissioner.

History: *2010 c 347 art 4 s 4; 2018 c 104 s 3*

58A.045 TERM OF LICENSE AND FEES.

Subdivision 1. **Term.** Licenses for mortgage loan originators issued under this chapter expire on December 31 and are renewable on January 1 of each year after that date.

Subd. 2. **Fees.** The following fees must be paid to the commissioner:

(1) for a mortgage loan originator license, $90; and

(2) for a renewal mortgage loan originator license, $50.

History: *2010 c 347 art 4 s 5*

58A.05 ISSUANCE OF LICENSE.

The commissioner shall not issue a mortgage loan originator license unless the commissioner finds at a minimum, that:

(1) the applicant has never had a mortgage loan originator license revoked in a governmental jurisdiction, except that a subsequent formal vacation of a revocation shall not be deemed a revocation;

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

(i) during the seven-year period preceding the date of the application for licensing and registration;

(ii) at any time preceding the date of application, if the felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering; or

(iii) provided that a pardon of a conviction is not a conviction for purposes of this clause;

(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 mortgage loan originator will operate honestly, fairly, and efficiently within the purposes of this chapter. For purposes of this chapter, a person has shown that the person is not financially responsible when the person has shown a disregard in the management of the person's own financial condition. A determination that an individual has not shown financial responsibility may include, but is not limited to:

(i) current outstanding judgments, except judgments solely as a result of medical expenses;

(ii) current outstanding tax liens or other government liens and filings;

(iii) foreclosures within the past three years; and

(iv) a pattern of seriously delinquent accounts within the past three years;

(4) the applicant has completed the prelicensing education requirement described in section 58A.06;

(5) the applicant has passed a written test that meets the test requirement described in section 58A.07; and

(6) the applicant has met the surety bond requirement as required under section 58A.13.

History: *2010 c 347 art 4 s 6*

58A.06 PRELICENSING AND RELICENSING EDUCATION OF LOAN ORIGINATORS.

Subdivision 1. **Minimum educational requirements.** In order to meet the prelicensing education requirement referred to in section 58A.05, clause (4), a person shall complete at least 20 hours of education approved according to subdivision 2, that includes at least:

(1) three hours of federal law and regulations;

(2) three hours of ethics, which includes instruction on fraud, consumer protection, and fair lending issues; and

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

Subd. 2. **Approved educational courses.** For purposes of subdivision 1, prelicensing education courses must be reviewed and approved by the Nationwide Multistate Licensing System and Registry based upon reasonable standards. Review and approval of a prelicensing education course must include review and approval of the course provider.

Subd. 3. **Approval of employer and affiliate educational courses.** Nothing in this section precludes a prelicensing education course, as approved by the Nationwide Multistate Licensing System and Registry, that is provided by the employer of the applicant or an entity that is affiliated with the applicant by an agency contract, or any subsidiary or affiliate of the employer or entity.

Subd. 4. **Venue of education.** Prelicensing education may be offered in a classroom, online, or by any other means approved by the Nationwide Multistate Licensing System and Registry.

Subd. 5. **Reciprocity of education.** The prelicensing education requirements approved by the Nationwide Multistate Licensing System and Registry in subdivision 1 for a state must be accepted as credit toward completion of prelicensing education requirements in Minnesota.

Subd. 6. **Relicensing education requirements.** A person previously licensed under this chapter after July 31, 2010, applying to be licensed again must prove that the person has completed all of the continuing education requirements for the year in which the license was last held.

History: *2010 c 347 art 4 s 7; 2018 c 104 s 3*

58A.07 TESTING OF LOAN ORIGINATORS.

Subdivision 1. **Generally.** In order to meet the written test requirement referred to in section 58A.05, clause (5), an individual shall pass, in accordance with the standards established under this section, a qualified written test developed by the Nationwide Multistate Licensing System and Registry (NMLSR) and designated as the NMLSR's National Test Component with Uniform State Content for Mortgage Loan Originator Licensing and administered by a test provider approved by the NMLSR based upon reasonable standards.

Subd. 2. **Qualified test.** A written test must not be treated as a qualified written test for purposes of subdivision 1 unless the test adequately measures the applicant's knowledge and comprehension in appropriate subject areas, including:

(1) ethics;

(2) federal law and regulation pertaining to mortgage origination;

(3) state law and rule pertaining to mortgage origination; and

(4) federal and state law and rule, including instruction on fraud, consumer protection, the nontraditional mortgage marketplace, and fair lending issues.

Subd. 3. **Testing location.** Nothing in this section prohibits a test provider approved by the Nationwide Multistate Licensing System and Registry from providing a test at the location of the employer of the applicant or the location of a subsidiary or affiliate of the employer of the applicant, or the location of an entity with which the applicant holds an exclusive arrangement to conduct the business of a mortgage loan originator.

Subd. 4. **Minimum competence.** (a) An individual is not 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) An individual may retake a test three consecutive times with each consecutive taking occurring at least 30 days after the preceding test.

(c) After failing three consecutive tests, an individual shall wait at least six months before taking the test again.

(d) A licensed mortgage loan originator who fails to maintain a valid license for a period of five years or longer shall retake the test, not taking into account any time during which the individual is a registered mortgage loan originator.

History: *2010 c 347 art 4 s 8; 2018 c 104 s 1,3*

58A.08 STANDARDS FOR LICENSE RENEWAL.

Subdivision 1. **Generally.** The minimum standards for license renewal for a mortgage loan originator include that the mortgage loan originator:

(1) continues to meet the minimum standards for license issuance under section 58A.05;

(2) has satisfied the annual continuing education requirements described in section 58A.09; and

(3) has paid all required fees for renewal of the license.

Subd. 2. **Failure to satisfy minimum standards of license renewal.** The license of a mortgage loan originator failing to satisfy the minimum standards for license renewal expires. The commissioner may adopt procedures for the reinstatement of expired licenses consistent with the standards established by the Nationwide Multistate Licensing System and Registry.

History: *2010 c 347 art 4 s 9; 2018 c 104 s 3*

58A.09 CONTINUING EDUCATION FOR MORTGAGE LOAN ORIGINATORS.

Subdivision 1. **Generally.** In order to meet the annual continuing education requirements referred to in section 58A.08, subdivision 1, clause (2), a licensed mortgage loan originator shall complete at least eight hours of education approved according to subdivision 2 that includes at least:

(1) three hours of federal law and regulations;

(2) two hours of ethics, which includes instruction on fraud, consumer protection, and fair lending issues;

(3) two hours of training related to lending standards for the nontraditional mortgage product marketplace; and

(4) one hour of Minnesota state law and rules.

Subd. 2. **Approved educational courses.** For purposes of subdivision 1, continuing education courses must be reviewed and approved by the Nationwide Multistate Licensing System and Registry based upon reasonable standards. Review and approval of a continuing education course must include review and approval of the course provider.

Subd. 3. **Approval of employer and affiliate educational courses.** Nothing in this section precludes an education course, as approved by the Nationwide Multistate Licensing System and Registry, that is provided by the employer of the mortgage loan originator or an entity that is affiliated with the mortgage loan originator by an agency contract, or a subsidiary or affiliate of the employer or entity.

Subd. 4. **Venue of education.** Continuing education may be offered either in a classroom, online, or by other means approved by the Nationwide Multistate Licensing System and Registry.

Subd. 5. **Calculation of continuing education credits.** A licensed mortgage loan originator:

(1) except for subdivision 9 and section 58A.08, subdivision 2, may only receive credit for a continuing education course in the year in which the course is taken; and

(2) may not take the same approved course in the same or successive years to meet the annual requirements for continuing education.

Subd. 6. **Instructor credit.** A licensed mortgage loan originator who is an approved instructor of an approved continuing education course may receive credit for the licensed mortgage loan originator's own annual continuing education requirement at the rate of two hours credit for every one hour taught.

Subd. 7. **Reciprocity of education.** A person having successfully completed the education requirements approved by the Nationwide Multistate Licensing System and Registry in subdivision 1 for a state must be accepted as credit toward completion of continuing education requirements in Minnesota.

Subd. 8. **Lapse in license.** A licensed mortgage loan originator who subsequently becomes unlicensed must complete the continuing education requirements for the last year in which the license was held before a new or renewed license is issued.

Subd. 9. **Deficiency.** A person meeting the requirements of section 58A.08, subdivision 1, clauses (1) and (3), may make up a deficiency in continuing education as established by rule of the commissioner.

History: *2010 c 347 art 4 s 10; 2018 c 104 s 2,3*

58A.10 AUTHORITY TO REQUIRE LICENSE.

In addition to any other duties imposed upon the commissioner by law, the commissioner shall require mortgage loan originators to be licensed and registered through the Nationwide Multistate Licensing System and Registry. In order to carry out this requirement, the commissioner may participate in the Nationwide Multistate Licensing System and Registry. For this purpose, the commissioner may establish by rule or order requirements as necessary, including but not limited to:

(1) background checks for:

(i) criminal history through fingerprint or other databases;

(ii) civil or administrative records;

(iii) credit history; or

(iv) other information as determined necessary by the Nationwide Multistate Licensing System and Registry;

(2) the payment of fees to apply for or renew licenses through the Nationwide Multistate Licensing System and Registry;

(3) the setting or resetting as necessary of renewal or reporting dates; and

(4) requirements for amending or surrendering a license or other activities the commissioner considers necessary for participation in the Nationwide Multistate Licensing System and Registry.

History: *2010 c 347 art 4 s 11; 2018 c 104 s 3*

58A.11 NATIONWIDE MULTISTATE LICENSING SYSTEM AND REGISTRY INFORMATION CHALLENGE PROCESS.

The commissioner shall establish a process that allows mortgage loan originators to challenge information entered into the Nationwide Multistate Licensing System and Registry by the commissioner.

History: *2010 c 347 art 4 s 12; 2018 c 104 s 3*

58A.12 ENFORCEMENT AUTHORITIES, VIOLATIONS, AND PENALTIES.

(a) In order to ensure the effective supervision and enforcement of this chapter, the commissioner may, pursuant to chapter 14:

(1) deny, suspend, revoke, condition, or decline to renew a license for a violation of this chapter, rules issued under this chapter, or order or directive entered under this chapter;

(2) deny, suspend, revoke, condition, or decline to renew a license if an applicant or licensee fails at anytime to meet the requirements of section 58A.05 or 58A.08, or withholds information or makes a material misstatement in an application for a license or renewal of a license;

(3) order restitution against persons subject to this chapter for violations of this chapter;

(4) impose fines on persons subject to this chapter pursuant to paragraphs (b) to (d); and

(5) issue orders or directives under this chapter as follows:

(i) order or direct persons subject to this chapter to cease and desist from conducting business, including immediate temporary orders to cease and desist;

(ii) order or direct persons subject to this chapter to cease any harmful activities or violations of this chapter, including immediate temporary orders to cease and desist;

(iii) enter immediate temporary orders to cease business under a license if the commissioner determines that the license was erroneously granted or the licensee is currently in violation of this chapter; and

(iv) order or direct other affirmative action the commissioner considers necessary.

(b) The commissioner may impose a civil penalty on a mortgage loan originator or person subject to this chapter if the commissioner finds, on the record after notice and opportunity for hearing, that the mortgage loan originator or person subject to this chapter has violated or failed to comply with any requirement of this chapter or any rule prescribed by the commissioner under this chapter or order issued under authority of this chapter.

(c) The maximum amount of penalty for each act or omission described in paragraph (b) is $25,000.

(d) Each violation or failure to comply with any directive or order of the commissioner is a separate and distinct violation or failure.

History: *2010 c 347 art 4 s 13; 2014 c 313 s 1*

58A.13 SURETY BOND REQUIRED.

Subdivision 1. **Coverage, form, and rules.** (a) Each mortgage loan originator must be covered by a surety bond meeting the requirements of section 58.08. In the event that the mortgage loan originator is an employee or exclusive agent of a person subject to this chapter, the surety bond of the person subject to this chapter can be used in lieu of the mortgage loan originator's surety bond requirement.

(b) The surety bond shall provide coverage for each mortgage loan originator in an amount as prescribed in subdivision 2.

(c) The surety bond must be in a form as prescribed by the commissioner.

Subd. 2. **Penal sum of surety bond.** The penal sum of the surety bond must be maintained in the amount that reflects the dollar amount of loans originated as determined under section 58.08, subdivision 1a, paragraph (c).

Subd. 3. **Action on bond.** When an action is commenced on a licensee's residential mortgage originator bond, the commissioner may require the filing of a new bond.

Subd. 4. **New bond.** Immediately upon recovery upon any action on the bond, the residential mortgage originator shall file a new bond.

History: *2010 c 347 art 4 s 14; 2020 c 80 art 1 s 12*

58A.14 CONFIDENTIALITY.

Subdivision 1. **Protections.** Except as otherwise provided in Public Law 110-289, section 1512, the requirements under chapter 13 or any federal law regarding the privacy or confidentiality of any information or material provided to the Nationwide Multistate Licensing System and Registry, and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to the information or material, continue to apply to the information or material after the information or material has been disclosed to the Nationwide Multistate Licensing System and Registry. The 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 chapter 13 or federal law.

Subd. 2. **Agreements and sharing arrangements.** For purposes of this section, the commissioner is authorized to enter agreements or sharing arrangements with other governmental agencies, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators, or other associations representing governmental agencies as established by rule or order of the commissioner.

Subd. 3. **Nonapplicability of certain requirements.** Information or material that is subject to a privilege or confidentiality under subdivision 1 is not 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 Multistate Licensing System and Registry with respect to the information or material, the person to whom the information or material pertains waives, in whole or in part, in the discretion of the person, that privilege.

Subd. 4. **Coordination with Minnesota Government Data Practices Act.** Chapter 13 relating to the disclosure of confidential supervisory information or any information or material described in subdivision 1 that is inconsistent with subdivision 1 is superseded by the requirements of this section.

Subd. 5. **Public access to information.** This section does not apply with respect to the information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, mortgage loan originators that are included in the Nationwide Multistate Licensing System and Registry for access by the public.

History: *2010 c 347 art 4 s 15; 2018 c 104 s 3*

58A.15 INVESTIGATION AND EXAMINATION AUTHORITY.

Subdivision 1. **Generally.** In addition to any authority allowed under this chapter, the commissioner may conduct investigations and examinations according to subdivisions 2 to 9.

Subd. 2. **Authority to access information.** For purposes of initial licensing, license renewal, license suspension, license conditioning, license revocation or termination, or general or specific inquiry or investigation to determine compliance with this chapter, the commissioner may access, receive, and use any books, accounts, records, files, documents, information, or evidence including but not limited to:

(1) criminal, civil, and administrative history information, including nonconviction data;

(2) personal history and experience information, including independent credit reports obtained from a consumer reporting agency described in United States Code, title 15, section 1681a(p); and

(3) any other documents, information, or evidence the commissioner considers relevant to the inquiry or investigation regardless of the location, possession, control, or custody of the documents, information, or evidence.

Subd. 3. **Investigation, examination, and subpoena authority.** For the purposes of investigating violations or complaints arising under this chapter, or for the purposes of examination, the commissioner may review, investigate, or examine a licensee, individual, or person subject to this chapter, as often as necessary in order to carry out the purposes of this chapter. The commissioner may direct, subpoena, or order the attendance of and examine under oath all persons whose testimony may be required about the loans or the business or subject matter of any such examination or investigation, and may direct, subpoena, or order such person to produce books, accounts, records, files, and any other documents the commissioner considers relevant to the inquiry.

Subd. 4. **Availability of books and records.** A licensee, individual, or person subject to this chapter shall make available to the commissioner upon request the books and records relating to the operations of the licensee, individual, or person subject to this chapter. The commissioner shall have access to the books and records and interview the officers, principals, mortgage loan originators, employees, independent contractors, agents, and customers of the licensee, individual, or person subject to this chapter concerning the licensee's, individual's, or person's business.

Subd. 5. **Reports and other information as directed.** A licensee, individual, or person subject to this chapter shall make or compile reports or prepare other information as directed by the commissioner in order to carry out the purposes of this section including but not limited to:

(1) accounting compilations;

(2) information lists and data concerning loan transactions in a format prescribed by the commissioner; or

(3) other information the commissioner considers necessary to carry out the purposes of this section.

Subd. 6. **Control access to records.** In making an examination or investigation authorized by this chapter, the commissioner may control access to documents and records of the licensee or person under examination or investigation. The commissioner may take possession of the documents and records or place a person in exclusive charge of the documents and records in the place where they are usually kept. During the period of control, no individual or person shall remove or attempt to remove any of the documents and records except pursuant to a court order or with the consent of the commissioner. Unless the commissioner has reasonable grounds to believe the documents or records of the licensee have been, or are at risk of being, altered or destroyed for purposes of concealing a violation of this chapter, the licensee or owner of the documents and records has access to the documents or records as necessary to conduct its ordinary business affairs.

Subd. 7. **Additional authority.** In order to carry out the purposes of this section, the commissioner may:

(1) retain attorneys, accountants, or other professionals and specialists as examiners, auditors, or investigators to conduct or assist in the conduct of examinations or investigations;

(2) enter into agreements or relationships with other government officials or regulatory associations in order to improve efficiencies and reduce regulatory burden by sharing resources, standardized or uniform methods or procedures, and documents, records, information, or evidence obtained under this section;

(3) use, hire, contract, or employ public or privately available analytical systems, methods, or software to examine or investigate the licensee, individual, or person subject to this chapter;

(4) accept and rely on examination or investigation reports made by other government officials, within or without this state; or

(5) accept audit reports made by an independent certified public accountant for the licensee, individual, or person subject to this chapter in the course of that part of the examination covering the same general subject matter as the audit and incorporate the audit report in the report of the examination, report of investigation, or other writing of the commissioner.

Subd. 8. **Effect of authority.** The authority of this section remains in effect, whether a licensee, individual, or person subject to this chapter acts or claims to act under any licensing or registration law of this state, or claims to act without such authority.

Subd. 9. **Withhold records.** A licensee, individual, or person subject to investigation or examination under this section shall not knowingly withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer records, or other information.

History: *2010 c 347 art 4 s 16*

58A.16 PROHIBITED ACTS AND PRACTICES.

Subdivision 1. **Generally.** It is a violation of this chapter for a person or individual subject to this chapter to:

(1) directly or indirectly employ any scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud any person;

(2) engage in any unfair or deceptive practice toward any person;

(3) obtain property by fraud or misrepresentation;

(4) solicit or enter into a contract with a borrower that provides in substance that the person or individual subject to this chapter may earn a fee or commission through "best efforts" to obtain a loan even though no loan is actually obtained for the borrower;

(5) solicit, advertise, or enter into a contract for specific interest rates, points, or other financing terms unless the terms are actually available at the time of soliciting, advertising, or contracting;

(6) conduct any business covered by this chapter without holding a valid license as required under this chapter, or assist or aide and abet any person in the conduct of business under this chapter without a valid license as required under this chapter;

(7) fail to make disclosures as required by this chapter and any other applicable state or federal law or regulations;

(8) fail to comply with this chapter or rules adopted under this chapter or fail to comply with any other state or federal law or regulations applicable to any business authorized or conducted under this chapter;

(9) make, in any manner, any false or deceptive statement or representation including, with regard to the rates, points, or other financing terms or conditions for a residential mortgage loan; or engage in bait-and-switch advertising;

(10) negligently make a false statement or knowingly and willfully make an omission of material fact in connection with any information or reports filed with a governmental agency or the Nationwide Multistate Licensing System and Registry or in connection with an investigation conducted by the commissioner or another governmental agency;

(11) make a payment, threat, or promise, directly or indirectly, to a person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan, or make a payment threat or promise, directly or indirectly, to an appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;

(12) collect, charge, attempt to collect or charge, or use or propose an agreement purporting to collect or charge a fee prohibited by this chapter;

(13) cause or require a borrower to obtain property insurance coverage in an amount that exceeds the replacement cost of the improvements as established by the property insurer; or

(14) fail to truthfully account for money belonging to a party to a residential mortgage loan transaction.

Subd. 2. **Loan processor or underwriter activities.** An individual engaging solely in loan processor or underwriter activities shall 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 the individual can or will perform any of the activities of a mortgage loan originator.

History: *2010 c 347 art 4 s 17; 2018 c 104 s 3*

58A.17 MORTGAGE CALL REPORTS.

A mortgage licensee shall submit to the Nationwide Multistate Licensing System and Registry reports of condition, which must be in the form and contain the information the Nationwide Multistate Licensing System and Registry requires.

History: *2010 c 347 art 4 s 18; 2018 c 104 s 3*

58A.18 REPORT TO NATIONWIDE MULTISTATE LICENSING SYSTEM AND REGISTRY.

The commissioner shall regularly report violations of this chapter, as well as enforcement actions and other relevant information, to the Nationwide Multistate Licensing System and Registry subject to the provisions contained in section 58A.14.

History: *2010 c 347 art 4 s 19; 2018 c 104 s 3*

58A.20 UNIQUE IDENTIFIER SHOWN.

The unique identifier of any person originating a residential mortgage loan shall be clearly shown on all residential mortgage loan application forms, solicitations, or advertisements, including business cards or websites, and any other documents as established by rule or order of the commissioner.

History: *2010 c 347 art 4 s 20*

58A.22 INCORPORATION BY REFERENCE.

The final rules adopted by the United States Department of Housing and Urban Development under the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, and subsequent amendments, are incorporated by reference.

History: *2010 c 347 art 4 s 21*