

STATE OF WYOMING GENERAL SESSION 2009

Chapter 184

MORTGAGE LOAN ORIGINATORS

Original House Bill No. 169

AN ACT relating to mortgage loan originators; modifying the Wyoming Residential Mortgage Practices Act; modifying the Uniform Consumer Credit Code; amending and providing new definitions; providing exceptions for licenses; providing for surety bonds; providing for confidentiality; providing coordination with and disclaimer to a national registry system; providing for enforcement; requiring reports; providing for loan origination licensing and registration; authorizing rulemaking; providing for processing applications; providing for prelicensing education; providing for continuing education; requiring testing; providing for license renewal; requiring fees; making conforming amendments; repealing a license exemption; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 40-14-637 through 40-14-649 and 40-23-124 through 40-23-133 are created to read:

40-14-637. Surety bonds.

(a) Any organization employing or contracting with a mortgage loan originator shall maintain a surety bond to the state of Wyoming in accordance with this section. The surety bond shall be used to cover individual mortgage loan originators employed by or under contract with the organization. The amount of the bond shall be established by rule of the administrator based upon the volume of residential mortgage loan activity transacted by the organization under this act.

(b) The surety bond shall be a continuing obligation of the issuing surety. The surety's liability under the bond for any claims made under the bond either individually or in the aggregate shall in no event exceed the face amount of the bond issued. The bond shall be issued by a surety authorized to do business in the state of Wyoming. The bond, including any and all riders and endorsements executed subsequent to the effective date of the bond, shall be placed on file with the administrator.

(c) In the event an organization or mortgage loan originator employed by or under contract with an organization has violated any of the provisions of this act or a rule or order lawfully made pursuant to this act pertaining to a residential mortgage loan transaction, or federal law or regulation pertaining to the mortgage lending or mortgage brokering, and has damaged any person by such violation, then the bond shall be forfeited and paid by the surety to the state of Wyoming for the benefit of any person so damaged, in an amount sufficient to satisfy the violation or the bond in its entirety if the violation exceeds the amount of the bond.

(d) Surety bonds shall remain effective continuously until released in writing by the administrator. If a bond has not been previously released by

STATE OF WYOMING GENERAL SESSION 2009

the administrator, the bond shall expire two (2) years after the date of the surrender, revocation or expiration of the license.

40-14-638. Mortgage call reports.

Each organization employing or contracting with a mortgage loan originator shall submit to the registry reports of condition, which shall be in such form and shall contain such information as required by the registry.

40-14-639. Report to the registry.

The administrator shall regularly report violations of this act relating to transactions conducted by mortgage loan originators, as well as enforcement actions and other relevant information, to the registry subject to the provisions contained in W.S. 40-14-636. The administrator shall establish by rule a process where a mortgage loan originator may challenge information entered into the registry by the administrator.

Part 4. Mortgage Loan Originator

Licensing 40-14-640. Additional definitions.

(a) As used in this part:

(i) "Channeling agent" means the third party licensing system that gathers the application information and distributes it to Wyoming for review for the approval or denial decision;

(ii) "Clerical or support duties" means:

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

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

(iii) "Depository institution" means an organization as defined in 12 U.S.C. 1813 of the Federal Deposit Insurance Act and includes any credit union;

(iv) "Dwelling" means a residential structure that contains one (1) to four (4) units, whether or not that structure is attached to real property. "Dwelling", if it is used as a residence, includes an individual condominium

STATE OF WYOMING GENERAL SESSION 2009

unit, cooperative unit, mobile home and trailer;

(v) "Federal banking agency" 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 or the federal deposit insurance corporation;

(vi) "Immediate family member" means a spouse, child, sibling, parent, grandparent, grandchild, stepparent, stepchild, stepsibling and any adoptive relationship included in this paragraph;

(vii) "Individual" means a natural person;

(viii) "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 an organization employing or contracting with a mortgage loan originator, or an exempt person under W.S. 40-14-121;

(ix) "Mortgage loan originator":

(A) 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 the terms of a residential mortgage loan.

(B) Shall not include any individual engaged solely as a loan processor or underwriter except as otherwise described in W.S. 40-14-641(d);

(C) Shall not include a person who only performs real estate brokerage activities and is licensed or registered in accordance with Wyoming law, unless the person is compensated by a lender, a mortgage broker or other mortgage loan originator or by any agent of such lender, mortgage broker or other mortgage loan originator; and

(D) Shall not include a person solely involved in extensions of credit relating to timeshare plans.

(x) "Nontraditional mortgage product" means any mortgage product other than a thirty (30) year fixed rate mortgage;

(xi) "Real estate brokerage activity" means any activity that involves offering or providing real estate brokerage services to the public, including:

STATE OF WYOMING GENERAL SESSION 2009

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

(B) Arranging meetings or communicating with any party interested in the sale, purchase, lease, rental or exchange of real property;

(C) Negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental or exchange of real property, unless the negotiating relates to the financing of these transactions, which shall then constitute engaging in the business as a mortgage loan originator;

(D) Engaging in any 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

(E) Offering to engage in any activity, or act in any capacity, described in subparagraph (A), (B), (C) or (D) of this paragraph.

(xii) "Registered mortgage loan originator" means any individual who:

(A) Is registered with, and maintains a unique identifier through, the registry; and

(B) Meets the definition of mortgage loan originator and is an employee of:

(I) An institution regulated by the farm credit administration;

(II) A depository institution; or

(III) A subsidiary that is:

(1) Owned and controlled by a depository institution; and

(2) Regulated by a federal banking agency.

(xiii) "Registry" means the nationwide mortgage licensing system and registry which is 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 mortgage lenders, mortgage brokers and mortgage loan originators;

(xiv) "Residential mortgage loan" means a consumer loan as defined in W.S. 40-14-304 or a consumer credit sale as defined in W.S. 40-14-204, made primarily for personal, family or household use that is secured by a

STATE OF WYOMING GENERAL SESSION 2009

mortgage, deed of trust or other equivalent consensual security interest on a dwelling or residential real estate upon which is constructed or intended to be constructed a dwelling;

(xv) "Timeshare plan" means as defined in 11 U.S.C. § 101(53D);

(xvi) "Unique identifier" means a number or other identifier assigned by protocols established by the registry.

40-14-641. Loan originator licensing; registration; rulemaking.

(a) An individual, unless specifically exempted under subsection (c) of this section, shall not engage in the business of a mortgage loan originator for any dwelling located in Wyoming without first obtaining and maintaining annually a license in accordance with part 4 of this article. Each licensed mortgage loan originator shall register with and maintain a valid unique identifier issued by the registry.

(b) In order to facilitate an orderly transition to licensing and minimize disruption in the marketplace, the effective date for subsection (a) of this section shall be July 1, 2010.

(c) An individual is exempt from subsection (a) of this section if he is:

(i) A registered mortgage loan originator, when acting for an entity described in W.S. 40-14-640(a)(xii)(B)(I), (II) or (III);

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

(iii) Any individual who offers or negotiates terms of a residential mortgage loan secured by a dwelling that serves as a seller's residence;

(iv) 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 such lender, mortgage broker or other mortgage loan originator;

(v) An individual engaging solely in loan processor or underwriter activities, 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 mortgage loan originator.

STATE OF WYOMING GENERAL SESSION 2009

(d) A loan processor or underwriter who is an independent contractor shall not engage in the activities of a loan processor or underwriter unless the independent contractor loan processor or underwriter obtains and maintains a license pursuant to subsection (a) of this section. Each independent contractor loan processor or underwriter licensed as a mortgage loan originator shall have and maintain a valid unique identifier issued by the registry.

(e) For the purpose of implementing an orderly and efficient licensing process the administrator may establish licensing rules or regulations and interim procedures for licensing and acceptance of applications.

40-14-642. Loan originator application; processing.

(a) Applicants for a mortgage loan originator license shall apply in a form prescribed by the administrator. Each application form shall contain content as established by the administrator and may be changed or updated as necessary by the administrator in order to carry out the purposes of part 4 of this article.

(b) In order to fulfill the purposes of this act, the administrator may establish relationships or contract with the registry or any other entity designated by the registry to collect and maintain records and process transaction fees or other fees related to licensees or other persons subject to this act.

(c) In connection with an application for licensing as a mortgage loan originator, the applicant shall, at a minimum, furnish to the registry information concerning the applicant's identity, including:

(i) Fingerprints for submission to the federal bureau of investigation, and any governmental agency or entity authorized to receive such information for a state, national and international criminal history background check; and

(ii) Personal history and experience, including the submission of authorization for the registry and the administrator to obtain:

(A) An independent credit report obtained from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act; and

(B) Information related to any administrative, civil or criminal findings by any governmental jurisdiction.

(d) 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 paragraph (c)(i) of this section and subparagraph (c)(ii)(B)

STATE OF WYOMING GENERAL SESSION 2009

of this section, the administrator may use the registry as a channeling agent for requesting information from and distributing information to the department of justice or any governmental agency.

(e) For the purposes of this section and in order to reduce the points of contact which the administrator may have to maintain for purposes of subparagraphs (c)(ii)(A) and (B) of this section, the administrator may use the registry as a channeling agent for requesting and distributing information to and from any source as directed by the administrator.

(f) Each application submitted under subsection (a) of this section shall be accompanied by an application fee not to exceed three hundred dollars (\$300.00), as established by rule of the administrator. When an application for licensure is denied or withdrawn, the administrator shall retain all fees paid by the applicant.

40-14-643. Issuance of loan originator licenses.

(a) The administrator shall not issue a mortgage loan originator license unless the administrator makes at a minimum the following findings:

(i) The applicant has not had a mortgage loan originator license revoked in any governmental jurisdiction, except that a subsequent formal vacation of such revocation shall not be deemed a revocation;

(ii) 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 seven (7) year period preceding the date of the application for licensing and registration; or

(B) 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. Any pardon of a conviction shall not be a conviction for the purposes of this paragraph.

(iii) 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 act;

(iv) The applicant has completed the prelicensing education requirement pursuant to W.S. 40-14-644;

(v) The applicant has passed a written test that meets the test requirement described in W.S. 40-14-645.

STATE OF WYOMING GENERAL SESSION 2009

(b) For purposes of paragraph (a)(iii) of this section, a person has shown that he is not financially responsible when he has shown a disregard in the management of his own financial condition. A determination that an individual has not shown financial responsibility shall include, but not be limited to:

(i) Having any outstanding judgment, except a judgment solely as a result of medical expenses;

(ii) Having any outstanding tax lien or other government lien;

(iii) Having any foreclosure within the past three (3) years;

(iv) Having a pattern of seriously delinquent accounts within the past three (3) years.

(c) Upon written request, an applicant is entitled to a hearing on the question of his qualifications for a license if:

(i) The administrator has notified the applicant in writing that his application has been denied, or objections to the application have been filed with the administrator;

(ii) The administrator has not issued a license within sixty (60) days after a complete application for the license was filed.

(d) If a hearing is held, the applicant and those filing objections shall reimburse, pro rata, the administrator for his reasonable and necessary expenses incurred as a result of the hearing. Notwithstanding any provision under the Wyoming Administrative Procedure Act, a request for hearing shall not be made more than fifteen (15) days after the applicant has received notification by certified mail that the application has been denied and stating in substance the administrator's finding supporting denial of the application or that objections have been filed and the substance thereof.

40-14-644. Prelicensing and relicensing education of loan originators.

(a) In order to meet the prelicensing education requirement referred to in 40-14-643(a)(iv), a person shall complete at least twenty (20) hours of education approved in accordance with subsection (b) of this section, which shall include at least:

(i) Three (3) hours of federal law and regulations related to mortgage origination;

(ii) Three (3) hours of ethics, which shall include instruction on fraud,

STATE OF WYOMING GENERAL SESSION 2009

consumer protection and fair lending issues; and

(iii) Two (2) hours of training related to lending standards for the nontraditional mortgage product marketplace.

(b) For purposes of subsection (a) of this section, prelicensing education courses shall be reviewed and approved by the registry. The review and approval of a prelicensing education course shall include review and approval of the course provider.

(c) Nothing in this section shall preclude any prelicensing education course, as approved by the registry, that is provided by the employer of the applicant or an entity which is affiliated with the applicant by an agency contract, or any subsidiary or affiliate of such employer or entity.

(d) Prelicensing education may be offered either in a classroom, online or by any other means approved by the registry.

(e) The prelicensing education requirements approved by the registry in paragraphs (a)(i), (ii) and (iii) of this section for any state shall be accepted as credit towards completion of prelicensing education requirements in Wyoming.

(f) An individual licensed under W.S. 40-14-641 after July 1, 2009 and who subsequently applies to be licensed again:

(i) Shall not have to complete prelicensing education requirements;

(ii) Shall have completed all the continuing education requirements pursuant to W.S. 40-14-647.

40-14-645. Testing of mortgage loan originators.

(a) In order to meet the written test requirement under W.S. 40-14-643(a)(v), an individual shall pass, in accordance with the standards established under this section, a qualified written test developed by the registry and administered by a test provider approved by the registry.

(b) A written test shall not be treated as a qualified written test for purposes of subsection (a) of this section unless the test adequately measures the applicant's knowledge and comprehension in appropriate subject areas, including:

(i) Ethics;

(ii) Federal law and regulation pertaining to mortgage origination;

STATE OF WYOMING GENERAL SESSION 2009

(iii) Wyoming Law and regulation pertaining to mortgage origination; and

(iv) Federal and Wyoming law and regulation, including instruction on fraud, consumer protection, the nontraditional mortgage marketplace and fair lending issues.

(c) Nothing in this section shall prohibit a test provider from providing a test at the location of the employer of the applicant, the location of any subsidiary or affiliate of the employer of the applicant or the location of any entity with which the applicant holds an exclusive arrangement to conduct the business of a mortgage loan originator.

(d) An individual shall not be considered to have passed a qualified written test unless the individual achieves a test score of not less than seventy-five percent (75%) correct answers to test questions.

(e) An individual may retake a test three (3) times with each test taking occurring at least thirty (30) days after the preceding test.

(f) After failing three (3) tests, an individual shall wait at least six (6) months before taking the test again.

(g) A licensed mortgage loan originator who fails to maintain a valid license for at least five (5) years shall retake the written test. Any time the individual spends working as a registered mortgage loan originator shall not be counted against this five (5) year period.

40-14-646. Standards for loan originator license renewal; rulemaking.

(a) The minimum standards for license renewal for mortgage loan originators shall include the following:

(i) The mortgage loan originator continues to meet the minimum standards for license issuance under W.S. 40-14-643(a)(i) through (v);

(ii) The mortgage loan originator has satisfied the annual continuing education requirements described in W.S. 40-14-647;

(iii) The mortgage loan originator has paid the license renewal fee not to exceed three hundred dollars (\$300.00), as established by rule of the administrator.

(b) Each mortgage loan originator license shall expire on December 31. The license shall be renewed annually by satisfying the minimum standards for license renewal not less than thirty (30) days before the stated expiration date. The administrator may establish rules for the reinstatement of

STATE OF WYOMING GENERAL SESSION 2009

expired licenses consistent with the standards established by the registry.

40-14-647. Continuing education for mortgage loan originators; rulemaking.

(a) In order to meet the annual continuing education requirements required by W.S. 40-14-646(a)(ii), a licensed mortgage loan originator shall complete at least eight (8) hours of education approved in accordance with subsection (b) of this section, which shall include at least:

(i) Three (3) hours of federal law and regulations relating to mortgage origination;

(ii) Two (2) hours of ethics, which shall include instruction on fraud, consumer protection and fair lending issues; and

(iii) Two (2) hours of training related to lending standards for the nontraditional mortgage product marketplace.

(b) For purposes of subsection (a) of this section, continuing education courses shall be reviewed and approved by the registry. The review and approval of a continuing education course shall include review and approval of the course provider.

(c) Nothing in this section shall preclude any education course, as approved by the registry, that is provided by the employer of the mortgage loan originator or an entity which is affiliated with the mortgage loan originator by an agency contract, or any subsidiary or affiliate of such employer or entity.

(d) Continuing education may be offered either in a classroom, online or by any other means approved by the registry.

(e) A licensed mortgage loan originator:

(i) Except as provided in W.S. 40-14-646(b), shall only receive credit for a continuing education course in the year in which the course is taken; and

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

(f) A licensed mortgage loan originator who is an 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 (2) hours credit for every one (1) hour taught.

STATE OF WYOMING GENERAL SESSION 2009

(g) An individual having successfully completed the education requirements approved by the registry in paragraphs (a)(i), (ii) and (iii) of this section for any state shall be accepted as credit towards completion of continuing education requirements in Wyoming.

(h) An individual meeting the requirements of W.S. 40-14-646(a)(i) and (iii) may make up any deficiency in continuing education as established by rule of the administrator.

(j) An individual licensed under W.S. 40-14-641 after July 1, 2009 and who subsequently applies to be licensed again shall complete the continuing education requirements for the last year in which the license was held prior to issuance of a new or renewed license.

40-14-648. Authority to require license.

(a) In addition to any other duties imposed upon the administrator by law, the administrator shall require mortgage loan originators to be licensed and registered through the registry. In order to carry out this requirement the administrator may participate in the registry. For this purpose, the administrator may establish by rule any requirements as necessary, including but not limited to:

(i) Background checks for:

(A) Criminal history through fingerprint or other databases;

(B) Civil or administrative records;

(C) Credit history; or

(D) Any other information as deemed necessary by the registry.

(ii) The payment of fees to apply for or renew licenses through the registry; and

(iii) Requirements for amending or surrendering a license or any other such activities as the administrator deems necessary for participation in the registry.

40-14-649. Unique identifier; rulemaking.

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

40-23-124. Loan originator licensing; registration; rulemaking.

(a) An individual, unless specifically exempted under subsection (c) of this section, shall not engage in the business of a mortgage loan originator for any dwelling located in Wyoming without first obtaining and maintaining annually a license in accordance with this act. Each licensed mortgage loan originator shall register with and maintain a valid unique identifier issued by the registry.

(b) In order to facilitate an orderly transition to licensing and minimize disruption in the marketplace, the effective date for subsection (a) of this section shall be July 1, 2010.

(c) An individual is exempt from subsection (a) of this section if he is:

(i) A registered mortgage loan originator, when acting for an entity described in W.S. 40-23-102(a)(xxx)(B)(I), (II) or (III);

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

(iii) An individual who offers or negotiates terms of a residential mortgage loan secured by a dwelling that serves as a seller's residence;

(iv) 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 such lender, mortgage broker or other mortgage loan originator;

(v) An individual engaging solely in loan processor or underwriter activities, 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 the individual can or will perform any of the activities of a mortgage loan originator.

(d) 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 pursuant to subsection (a) of this section. Each independent contractor, loan processor or underwriter licensed as a mortgage loan originator shall have and maintain a valid unique identifier issued by the registry.

(e) For the purposes of implementing an orderly and efficient licensing

STATE OF WYOMING GENERAL SESSION 2009

process the commissioner may establish licensing rules or regulations and interim procedures for licensing and acceptance of applications.

40-23-125. Loan originator application; processing.

(a) Applicants for a mortgage loan originator license shall apply in a form prescribed by the commissioner. Each application form shall contain content as set forth by rule of the commissioner and may be changed or updated as necessary by the commissioner in order to carry out the purposes of this act.

(b) In order to fulfill the purposes of this act, the commissioner may establish relationships or contracts with the registry or other entities designated by the registry to collect and maintain records and process transaction fees or other fees related to licensees or other persons subject to this act.

(c) In connection with an application for licensing as a mortgage loan originator, the applicant shall, at a minimum, furnish to the registry information concerning the applicant's identity, including:

(i) Fingerprints for submission to the federal bureau of investigation, and any governmental agency or entity authorized to receive such information for a state, national and international criminal history background check; and

(ii) Personal history and experience, including the submission of authorization for the registry and the commissioner to obtain:

(A) An independent credit report obtained from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act; and

(B) Information related to any administrative, civil or criminal findings by any governmental jurisdiction.

(d) 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 paragraph (c)(i) of this section and subparagraph (c)(ii)(B) of this section, the commissioner may use the registry as a channeling agent for requesting information from and distributing information to the department of justice or any governmental agency.

(e) 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 subparagraphs (c)(ii)(A) and (B) of this section, the commissioner may use the registry as a channeling agent for requesting and distributing information to and from any source so directed by the commissioner.

STATE OF WYOMING GENERAL SESSION 2009

(f) Each application submitted under subsection (a) of this section shall be accompanied by an application fee not to exceed three hundred dollars (\$300.00), as established by rule of the commissioner. When an application for licensure is denied or withdrawn, the commissioner shall retain all fees paid by the applicant.

40-23-126. Issuance of loan originator license.

(a) The commissioner shall not issue a mortgage loan originator license unless the commissioner makes at a minimum the following findings:

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

(ii) 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 seven (7) year period preceding the date of the application for licensing and registration; or

(B) 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;

(C) A pardon of a conviction shall not be a conviction for the purposes of this paragraph.

(iii) 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 act;

(iv) The applicant has completed the prelicensing education requirement pursuant to W.S. 40-23-127;

(v) The applicant has passed a written test that meets the test requirement of W.S. 40-23-128.

(b) For purposes of paragraph (a)(iii) of this section, a person has shown that he is not financially responsible when he has shown a disregard in the management of his own financial condition. A determination that an individual has not shown financial responsibility shall include, but not be limited to:

(i) Having any outstanding judgment, except a judgment solely as a result of medical expenses;

STATE OF WYOMING GENERAL SESSION 2009

- (ii) Having any outstanding tax lien or other government lien;
 - (iii) Having any foreclosure within the past three (3) years;
 - (iv) Having a pattern of seriously delinquent accounts within the past three (3) years.
- (c) Upon written request, an applicant is entitled to a hearing on the question of his qualifications for a license if:
- (i) The commissioner has notified the applicant in writing that his application has been denied, or objections to the application have been filed with the commissioner;
 - (ii) The commissioner has not issued a license within sixty (60) days after a complete application for the license was filed.
- (d) If a hearing is held, the applicant and those filing objections shall reimburse, pro rata, the commissioner for his reasonable and necessary expenses incurred as a result of the hearing. Notwithstanding any provision under the Wyoming Administrative Procedure Act, a request for hearing shall not be made more than fifteen (15) days after the applicant has received notification by certified mail that the application has been denied and stating in substance the commissioner's finding supporting denial of the application or that objections have been filed and the substance thereof.

40-23-127. Prelicensing and relicensing education of loan originators.

- (a) In order to meet the prelicensing education requirement referred to in 40-23-126(a)(iv), a person shall complete at least twenty (20) hours of education approved in accordance with subsection (b) of this section, which shall include at least:
- (i) Three (3) hours of federal law and regulations related to mortgage origination;
 - (ii) Three (3) hours of ethics, which shall include instruction on fraud, consumer protection and fair lending issues; and
 - (iii) Two (2) hours of training related to lending standards for the nontraditional mortgage product marketplace.
- (b) For purposes of subsection (a) of this section, prelicensing education courses shall be reviewed and approved by the registry. The review and approval of a prelicensing education course shall include review and

STATE OF WYOMING GENERAL SESSION 2009

approval of the course provider.

(c) Nothing in this section shall preclude any prelicensing education course, as approved by the registry, that is provided by the employer of the applicant or an entity which is affiliated with the applicant by an agency contract, or any subsidiary or affiliate of such employer or entity.

(d) Prelicensing education may be offered either in a classroom, online or by any other means approved by the registry.

(e) The prelicensing education requirements approved by the registry in paragraphs (a)(i), (ii) and (iii) of this section for any state shall be accepted as credit towards completion of prelicensing education requirements in Wyoming.

(f) An individual licensed under W.S. 40-23-124 after July 1, 2009 and who subsequently applies to be licensed again:

(i) Shall not have to complete prelicensing education requirements;

(ii) Shall have completed all the continuing education requirements pursuant to W.S. 40-23-130.

40-23-128. Testing of mortgage loan originators.

(a) In order to meet the written test requirement under W.S. 40-23-126(a)(v), an individual shall pass, in accordance with the standards established under this section, a qualified written test developed by the registry and administered by a test provider approved by the registry.

(b) A written test shall not be treated as a qualified written test for purposes of subsection (a) of this section unless the test adequately measures the applicant's knowledge and comprehension in appropriate subject areas, including:

(i) Ethics;

(ii) Federal law and regulation pertaining to mortgage origination;

(iii) Wyoming law and regulation pertaining to mortgage origination;
and

STATE OF WYOMING GENERAL SESSION 2009

(iv) Federal and Wyoming law and regulation, including instruction on fraud, consumer protection, the nontraditional mortgage marketplace and fair lending issues.

(c) Nothing in the section shall prohibit a test provider from providing a test at the location of the employer of the applicant, the location of any subsidiary or affiliate of the employer of the applicant or the location of any entity with which the applicant holds an exclusive arrangement to conduct the business of a mortgage loan originator.

(d) An individual shall not be considered to have passed a qualified written test unless the individual achieves a test score of not less than seventy-five percent (75%) correct answers to questions.

(e) An individual may retake a test three (3) times with each test taking occurring at least thirty (30) days after the preceding test.

(f) After failing three (3) tests, an individual shall wait at least six (6) months before taking the test again.

(g) A licensed mortgage loan originator who fails to maintain a valid license for at least five (5) years shall retake the written test. Any time the individual spends working as a registered mortgage loan originator shall not be counted against this five (5) year period.

40-23-129. Standards for loan originator license renewal; rulemaking.

(a) The minimum standards for license renewal for mortgage loan originators shall include the following:

(i) The mortgage loan originator continues to meet the minimum standards for license issuance under W.S. 40-23-126(a)(i) through (v);

(ii) The mortgage loan originator has satisfied the annual continuing education requirements described in W.S. 40-23-130;

(iii) The mortgage loan originator has paid the license renewal fee not to exceed three hundred dollars (\$300.00), as established by rule of the commissioner.

(b) Each mortgage loan originator license shall expire on December 31. The license shall be renewed annually by satisfying the minimum standards for license renewal under subsection (a) of this section not less than thirty (30) days before the stated expiration date. The commissioner may establish rules for the reinstatement of expired licenses consistent with the standards established by the

registry.

40-23-130. Continuing education for mortgage loan originators; rulemaking.

(a) In order to meet the annual continuing education requirements referred to in W.S. 40-23-129(a)(ii), a licensed mortgage loan originator shall complete at least eight (8) hours of education approved in accordance with subsection (b) of this section, which shall include at least:

(i) Three (3) hours of federal law and regulations relating to mortgage origination;

(ii) Two (2) hours of ethics, which shall include instruction on fraud, consumer protection and fair lending issues; and

(iii) Two (2) hours of training related to lending standards for the nontraditional mortgage product marketplace.

(b) For purposes of section (a) of this section, continuing education courses shall be reviewed and approved by the registry. The review and approval of a continuing education course shall include review and approval of the course provider.

(c) Nothing in this section shall preclude any education course, as approved by the registry, that is provided by the employer of the mortgage loan originator or an entity which is affiliated with the mortgage loan originator by an agency contract, or any subsidiary or affiliate of such employer or entity.

(d) Continuing education may be offered either in a classroom, online or by any other means approved by the registry.

(e) A licensed mortgage loan originator:

(i) Except as provided in W.S. 40-23-129(b), shall only receive credit for a continuing education course in the year in which the course is taken; and

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

(f) A licensed mortgage loan originator who is an 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 (2) hours of credit for every one (1) hour taught.

(g) An individual having successfully completed the education

STATE OF WYOMING GENERAL SESSION 2009

requirements approved by the registry in paragraphs (a)(i), (ii) and (iii) of this section for any state shall be accepted as credit towards completion of continuing education requirements in Wyoming.

(h) An individual meeting the requirements of W.S. 40-23-129(a)(i) and (iii) may make up any deficiency in continuing education as established by rule of the commissioner.

(j) An individual licensed under W.S. 40-23-124 after July 1, 2009 and who subsequently applies to be licensed again shall complete the continuing education requirements for the last year in which the license was held prior to issuance of a new or renewed license.

40-23-131. Mortgage call reports.

Each licensee shall submit to the registry reports of condition, which shall be in such form and shall contain all information as required by the registry.

40-23-132. Report to the registry.

The commissioner shall regularly report violations of this act, as well as enforcement actions and other relevant information, to the registry subject to the provisions contained in W.S. 40-23-112. The commissioner shall establish by rule a process where a mortgage loan originator may challenge information entered into the registry by the commissioner.

40-23-133. Unique identifier; rulemaking.

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

Section 2. W.S. 7-19-106(a) by creating a new paragraph (xx), 7-19-201(a) by creating a new paragraph (xiii), 40-14-120(a)(i), (ii) and by creating a new paragraph (iii), 40-14-121(a)(intro), 40-14-140(a)(xii), by creating a new paragraph (xx) and by renumbering (xx) as (xxi), 40-14-142(a) by creating new paragraphs (lx) through (lxxvi) and by renumbering (lx) as (lxxvii), 40-14-204(a)(v), 40-14-304(a)(iv), 40-14-633, 40-14-634 by creating new subsections (m) and (n), 40-14-635 by creating a new subsection (h), 40-14-636, 40-23-102(a)(v), (vi), (ix), (xv), by creating new paragraphs (xviii) through (xxxiii) and by amending and renumbering (xviii) as (xxxiv), 40-23-103(a)(ii), 40-23-104, 40-23-107(b)(ii), (iv), (vi) and by creating a new paragraph (vii), 40-23-109(a), 40-23-110, 40-23-112(b), by creating new subsections (f) through (j) and by renumbering (f) as (k) and 40-23-118 by creating a new subsection (d) are amended to read:

STATE OF WYOMING GENERAL SESSION 2009

7-19-106. Access to, and dissemination of, information.

(a) Criminal history record information shall be disseminated by criminal justice agencies in this state, whether directly or through any intermediary, only to:

(xx) The state banking commissioner for purposes of licensing and registration pursuant to W.S. 40-14-642, 40-23-103 and 40-23-125.

7-19-201. State or national criminal history record information.

(a) The following persons shall be required to submit to fingerprinting in order to obtain state and national criminal history record information:

(xiii) Mortgage lenders, mortgage brokers, mortgage loan originators and persons identified in W.S. 40-23-107(a)(iii), as necessary to perform the background checks required by W.S. 40-14-642(c)(i), 40-23-103(a)(viii) and 40-23-125(c)(i).

40-14-120. Territorial application.

(a) Except as otherwise provided in this section, this act applies to consumer credit transactions made in this state. For purposes of this act, a consumer credit transaction is made in this state if:

(i) A signed writing evidencing the obligation or offer of the consumer is received by the creditor in this state; ~~or~~

(ii) The creditor induces consumers who are residents of this state to enter into credit transactions by a continuous and systematic solicitation either personally or by mail and the goods or money are delivered in this state and payment is made from this state; or

(iii) The credit transaction is secured by a dwelling, as defined in W.S. 40-14-640(a), located in Wyoming.

40-14-121. Exclusions.

(a) Except as required by W.S. 40-14-641, this act does not apply to:

40-14-140. General definitions.

(a) In addition to definitions appearing in subsequent articles, in this act:

(xii) "Organization" means a sole proprietorship, limited liability company, corporation, government or governmental subdivision or

STATE OF WYOMING GENERAL SESSION 2009

agency, trust, estate, partnership, cooperative, ~~or~~ association or other entity, public or private;

(xx) "Licensee" means an organization licensed under this act;

~~(xx)~~(xxi) "This act" means W.S. 40-14-101 through 40-14-702.

40-14-142. Index of definitions.

(a) Definitions in this act and the sections in which they appear are:

(lx) "Channeling agent" – W.S. 40-14-640(a)(i);

(lxi) "Clerical or support duties" – W.S. 40-14-640(a)(ii);

(lxii) "Depository institution" – W.S. 40-14-640(a)(iii);

(lxiii) "Dwelling" – W.S. 40-14-640(a)(iv);

(lxiv) "Federal banking agency" – W.S. 40-14-640(a)(v);

(lxv) "Immediate family member" – W.S. 40-14-640(a)(vi);

(lxvi) "Individual" – W.S. 40-14-640(a)(vii);

(lxvii) "Licensee" – W.S. 40-14-140(a)(xx);

(lxviii) "Loan processor or underwriter" – W.S. 40-14-640(a)(viii);

(lxix) "Mortgage loan originator" – W.S. 40-14-640(a)(ix);

(lxx) "Nontraditional mortgage product" – W.S. 40-14-640(a)(x);

(lxxi) "Real estate brokerage activity" – W.S. 40-14-640(a)(xi);

(lxxii) "Registered mortgage loan originator" – W.S. 40-14-640(a)(xii);

(lxxiii) "Registry" – W.S. 40-14-640(a)(xiii);

(lxxiv) "Residential mortgage loan" – W.S. 40-14-640(a)(xiv);

(lxxv) "Timeshare plan" – W.S. 40-14-640(a)(xv);

(lxxvi) "Unique identifier" – W.S. 40-14-640(a)(xvi);

~~(lx)~~(lxxvii) "This act" - means W.S. 40-14-101 through 40-14-702.

40-14-204. Definition of "consumer credit sale".

(a) Except as provided in subsection (b) of this section, "consumer credit

STATE OF WYOMING GENERAL SESSION 2009

sale” is a sale of goods, services or an interest in land in which:

(v) With respect to a sale of goods or services, the amount financed does not exceed fifty thousand dollars (\$50,000.00) or the debt is secured by ~~personal property used or expected to be used as the principal a dwelling, of the buyer as defined in W.S. 40-14-640(a)(iv), located in Wyoming.~~

40-14-304. Definition of “consumer loan”.

(a) Except with respect to a loan primarily secured by an interest in land, “consumer loan” is a loan made by a person regularly engaged in the business of making loans in which:

(iv) Either the principal does not exceed fifty thousand dollars (\$50,000.00) or the debt is secured by an interest in land or ~~by personal property used or expected to be used as the principal a dwelling, place of the debtor as defined in W.S. 40-14-640(a)(iv), located in Wyoming.~~

40-14-633. Crediting of monies.

All fees and other monies received by the administrator under the provisions of this act shall be deposited by the administrator with the state treasurer and credited to the consumer credit administration account, except the amount paid for data processing by a national mortgage licensing system and database. The funds deposited in the account under this act shall be subject to appropriation by the legislature to the administrator and shall be expended only to carry out the duties of the administrator. Expenditures shall be made from the account by warrants drawn by the state auditor, upon vouchers issued and signed by the administrator.

40-14-634. License required; application; fee; conditions and execution; license nontransferable; display; renewal.

(m)A license shall not be issued under subsection (b) of this section if the applicant has been convicted of, pled guilty or nolo contendere to, a felony in a domestic, foreign or military court during the seven (7) year period preceding the date of the application for licensing, or at any time preceding such date of application if such felony involved an act of fraud, dishonesty, breach of trust or money laundering.

(n)A license may be issued at the discretion of the administrator under subsection (b) of this section if the applicant has been convicted of, pled guilty or nolo contendere to a misdemeanor in a domestic, foreign or military court involving an act of fraud, dishonesty, breach of trust or money laundering.

40-14-635. Revocation or suspension of license.

(h) For purposes of this section, “licensee” shall also mean a licensed mortgage loan originator pursuant to W.S. 40-14-641.

STATE OF WYOMING GENERAL SESSION 2009

40-14-636. Records; confidentiality.

(a) For purposes of this section, "licensee" shall also mean a licensed mortgage loan originator pursuant to W.S. 40-14-640 and an organization employing or contracting with a mortgage loan originator.

(b) Every licensee shall maintain records in a manner that will enable the administrator to determine whether the licensee is complying with the provisions of this act. The administrator may by rule, and in accordance with W.S. 40-14-606(c), specify the manner in which records are to be made available. The records need not be kept in the place of business of the licensee, if the administrator is given free access to the records wherever located. The records pertaining to any transaction governed by this act need not be preserved for more than two (2) years after making the final entry relating to the transaction. In the case of a revolving loan account the two (2) years is measured from the date of each entry.

(c) Except as provided in subsections (d), (e) and (j) of this section, all information or reports obtained by the administrator from an applicant or licensee are confidential.

(d) Except as provided in P.L. 110-289, section 1512, the requirements under any federal or state law regarding the privacy or confidentiality of any information or material provided to the registry, 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 registry. Such information and any other confidential material obtained by the administrator 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 or state law.

(e) The administrator may enter into cooperative, coordinating or information sharing agreements with any other supervisory agency or any organization affiliated with or representing one (1) or more supervisory agencies with respect to the periodic examination or other supervision of any office in Wyoming of an out-of-state licensee, and the administrator may accept the parties' reports of examination and reports of investigation in lieu of conducting his own examinations or investigations.

(f) Information or material that is subject to a privilege or confidentiality protection under subsection (d) of this section shall not be subject to:

(i) Disclosure under any federal or state law governing the disclosure to the public of information held by an officer or agency of the federal government or the respective state; or

(ii) Subpoena, discovery or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege

STATE OF WYOMING GENERAL SESSION 2009

held by the registry with respect to such information or material, the person to whom such information or material pertains waives that privilege, in whole or in part.

(g) Any Wyoming law relating to the disclosure of confidential supervisory information or any information or material described in subsection (d) of this section that is inconsistent with subsection (d) of this section shall be superceded by the requirements of this section.

(h) 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, mortgage loan originator that is included in the registry for access by the public.

(j) The administrator may enter into contracts with any supervisory agency having concurrent jurisdiction over a Wyoming licensee pursuant to this act to engage the services of the agency's examiners at a reasonable rate of compensation. Any contract under this subsection shall not be subject to the provisions of W.S. 9-2-1016(b).

(k) This section does not prohibit the administrator from disclosing to the public a list of persons licensed under this act.

40-23-102. Definitions.

(a) As used in this act:

(v) "Licensee" means a ~~person~~ company licensed under this act as a mortgage broker or a mortgage lender;

(vi) "Mortgage broker" means any ~~person, other than those exempt under W.S. 40-23-105~~ company, who for compensation, or in the expectation of compensation, assists a person in obtaining or applying to obtain a residential mortgage loan or holds ~~himself~~ itself out as being able to assist a person in obtaining or applying to obtain a residential mortgage loan;

(ix) "Mortgage lender" means any ~~person, other than those exempt under W.S. 40-23-105~~ company, who makes residential mortgage loans to borrowers or holds ~~himself~~ itself out as able to make mortgage loans;

(xv) "Residential mortgage loan" means a first mortgage loan made primarily for personal, family or household use ~~and primarily secured by a security interest on residential real property that is secured by a mortgage, deed of trust or other equivalent consensual security interest on a dwelling or residential real estate in Wyoming upon which is constructed or intended to be constructed a dwelling~~;

(xviii) "Channeling agent" means the third party licensing system that gathers the application information and distributes it to Wyoming for review for the approval or denial decision;

STATE OF WYOMING GENERAL SESSION 2009

(xix) "Clerical or support duties" means:

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

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

(xx) "Company" means a sole proprietorship, partnership, corporation, limited liability company or other entity, public or private;

(xxi) "Depository institution" means a company as defined in 12 U.S.C. 1813 of the federal deposit insurance act, and includes any credit union;

(xxii) "Dwelling" means a residential structure that contains one (1) to four (4) units, whether or not that structure is attached to real property. "Dwelling", if it is used as a residence, includes an individual condominium unit, cooperative unit, mobile home and trailer;

(xxiii) "Federal banking agency" 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 or the federal deposit insurance corporation;

(xxiv) "Immediate family member" means a spouse, child, sibling, parent, grandparent, grandchild, stepparent, stepchild, stepsibling and any adoptive relationship included in this paragraph;

(xxv) "Individual" means a natural person;

(xxvi) "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 licensee, or an exempt person under W.S. 40-23-105;

(xxvii) "Mortgage loan originator":

(A) 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 the terms of a residential mortgage loan.

STATE OF WYOMING GENERAL SESSION 2009

(B) Shall not include any individual engaged solely as a loan processor or underwriter except as otherwise described in W.S. 40-23-124(d);

(C) Shall not include a person who only performs real estate brokerage activities and is licensed or registered in accordance with Wyoming law, unless the person is compensated by a lender, a mortgage broker or other mortgage loan originator or by any agent of such lender, mortgage broker or other mortgage loan originator; and

(D) Shall not include a person solely involved in extensions of credit relating to timeshare plans.

(xxviii) "Nontraditional mortgage product" means any mortgage product other than a thirty (30) year fixed rate mortgage;

(xxix) "Real estate brokerage activity" means any activity that involves offering or providing real estate brokerage services to the public, including:

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

(B) Arranging meetings or communicating with any party interested in the sale, purchase, lease, rental or exchange of real property;

(C) Negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental or exchange of real property, unless the negotiating relates to the financing of these transactions, which shall then constitute engaging in the business as a mortgage loan originator;

(D) Engaging in any 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

(E) Offering to engage in any activity, or act in any capacity, described in subparagraph (A), (B), (C) or (D) of this paragraph.

(xxx) "Registered mortgage loan originator" means any individual who:

(A) Is registered with, and maintains a unique identifier through, the registry; and

(B) Meets the definition of mortgage loan originator and is an employee of:

STATE OF WYOMING GENERAL SESSION 2009

(I) A depository institution;

(II) A subsidiary that is:

(1) Owned and controlled by a depository institution; and

(2) Regulated by a federal banking agency; or

(III) An institution regulated by the farm credit administration.

(xxxi) "Registry" means the nationwide mortgage licensing system and registry which is 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 mortgage lenders, mortgage brokers and mortgage loan originators;

(xxxii) "Timeshare plan" means as defined in 11 U.S.C. § 101(53D);

(xxxiii) "Unique identifier" means a number or other identifier assigned by protocols established by the registry;

(~~xviii~~)(xxxiv) "This act" means W.S. 40-23-101 through 40-23-123 40-23-133.

40-23-103. Powers and duties of commissioner.

(a) In addition to any other powers and duties imposed upon the commissioner by law, the commissioner shall:

(ii) Order any licensee-mortgage broker, mortgage lender or mortgage loan originator to cease any activity or practice which the commissioner deems to be deceptive, dishonest, a violation of state or federal laws or regulations or unduly harmful to the interests of the public;

40-23-104. License requirements.

(a) With the exception of those persons exempt pursuant to W.S. 40-23-105, on and after July 1, 2005, no person-company shall engage in mortgage lending activities or mortgage brokering activities without first obtaining a license in accordance with this act.

(b) A person-company engaged in mortgage lending or mortgage brokering activities who advertises, offers or provides services to Wyoming residents through any medium including, but not limited to, internet or other electronic means with any dwelling located in Wyoming shall first obtain a license in accordance with this act.

40-23-107. Application for license to do business as a mortgage lender or mortgage broker.

STATE OF WYOMING GENERAL SESSION 2009

(b) An application for license may be granted if the commissioner finds:

(ii) The applicant has not been convicted of, pled guilty or nolo contendere to, a felony or misdemeanor involving any aspect of the mortgage lending business, breach of trust or fraudulent or dishonest dealing in a domestic, foreign or military court during the seven (7) year period preceding the date of the application for licensing, or at any time preceding such date of application if such felony involved an act of fraud, dishonesty, breach of trust or money laundering;

(iv) The applicant has not filed an application for a license which is false or misleading with respect to any material fact; ~~and~~

(vi) The applicant has provided information on the application as required by the commissioner pursuant to subsection (a) of this section; and

(vii) The applicant has not been convicted of, pled guilty or nolo contendere to a misdemeanor in a domestic, foreign or military court involving an act of fraud, dishonesty, breach of trust or money laundering.

40-23-109. License renewal and annual report.

(a) Each mortgage broker and mortgage lender license issued under this act shall expire on December 31. The license shall be renewed annually not less than thirty (30) days before the stated expiration date. The renewal fee for each license shall not exceed one thousand dollars (\$1,000.00) for the home office location and an amount not to exceed one hundred dollars (\$100.00) for each additional location, as set by rule of the commissioner.

40-23-110. Surety bonds.

(a) All licensees shall maintain a surety bond to the state of Wyoming in accordance with this section. The surety bond shall be used to cover individual loan originators employed or under contract with a licensee. The bond to be maintained shall be in the amount:

(i) Until December 31, 2009, of twenty-five thousand dollars (\$25,000.00). This amount shall be increased by an additional sum of ten thousand dollars (\$10,000.00) for each licensed office;

(ii) Effective January 1, 2010, as established by rule of the commissioner based upon the volume of business activity transacted by the licensee under this act.

(b) The surety bond shall be a continuing obligation of the issuing surety. The surety's liability under the bond for any claims made under the bond either individually or in the aggregate shall in no event exceed the face

STATE OF WYOMING GENERAL SESSION 2009

amount of the bond issued. The bond shall be issued by a surety authorized to do business in the state of Wyoming. The bond, including any and all riders and endorsements executed subsequent to the effective date of the bond, shall be placed on file with the commissioner.

~~(b)(c)~~ In the event that a licensee or person employed by or under contract with a licensee has violated any of the provisions of this act or of a rule or order lawfully made pursuant to this act, or federal law or regulation pertaining to the mortgage lending or mortgage brokering, and has damaged any person by such violation, then the bond shall be forfeited and paid by the surety to the state of Wyoming for the benefit of any person so damaged, in an amount sufficient to satisfy the violation or the bond in its entirety if the violation exceeds the amount of the bond.

~~(e)(d)~~ Surety bonds shall remain effective continuously until released in writing by the commissioner. If a bond has not been previously released by the commissioner, the bond shall expire two (2) years after the date of the surrender, revocation or expiration of the license.

40-23-112. Records; confidentiality of records; exception.

(b) Except as provided in ~~subsection (e)~~ subsections (c) through (f) of this section, all information or reports obtained by the commissioner from an applicant or licensee are confidential.

(f) Except as provided in P.L. 110-289, section 1512, the requirements under any federal law or state law regarding the privacy or confidentiality of any information or material provided to the registry, 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 registry. Such information and any other confidential material obtained by the commissioner 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 law or any state law.

(g) Information or material that is subject to a privilege or confidentiality under subsection (f) of this section shall not be subject to:

(i) Disclosure under any federal or state law governing the disclosure to the public of information held by an officer or agency of the federal government or the respective state; or

(ii) Subpoena, discovery or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the registry with respect to such information or material, the person to whom such information or material pertains waives that privilege, in whole or in part.

(h) Any Wyoming law relating to the disclosure of confidential supervisory

STATE OF WYOMING GENERAL SESSION 2009

information or any information or material described in subsection (f) of this section that is inconsistent with subsection (f) of this section shall be superceded by the requirements of this section.

(j) 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, any mortgage loan originator that is included in the registry for access by the public.

~~(f)~~(k) This section does not prohibit the commissioner from disclosing to the public a list of persons licensed under this act.

40-23-118. License suspension or revocation.

(d) For purposes of this section, "licensee" shall also mean a licensed mortgage loan originator pursuant to W.S. 40-23-124.

Section 3. W.S. 40-23-105(a)(v) is repealed.

Section 4. This act is effective July 1, 2009.

Approved March 12, 2009.