

Part 1 General Provisions

70D-3-101 Title.

This chapter is known as the "Financial Institution Loan Originator Licensing Act."

Enacted by Chapter 72, 2009 General Session

70D-3-102 Definitions.

As used in this chapter:

- (1) "Administrative or clerical tasks" means:
 - (a) the receipt, collection, and distribution of information common for the process or underwriting of a loan in the mortgage industry; and
 - (b) a communication with a consumer to obtain information necessary for the processing or underwriting of a residential mortgage loan.
- (2) "Affiliate" shall be defined by the commissioner by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (3) "Applicant" means an individual applying for a license under this chapter.
- (4) "Approved examination provider" means a person approved by the nationwide database as an approved test provider.
- (5) "Business as a loan originator" means for compensation or in the expectation of compensation to engage in an act that makes an individual a loan originator.
- (6) "Clerical or support duties" includes after the receipt of an application for a residential mortgage loan:
 - (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 the residential mortgage loan, to the extent that the communication does not include:
 - (i) offering or negotiating a residential mortgage loan rate or term; or
 - (ii) counseling a consumer about a residential mortgage loan rate or term.
- (7) "Compensation" means anything of economic value that is paid, loaned, granted, given, donated, or transferred to an individual or entity for or in consideration of:
 - (a) services;
 - (b) personal or real property; or
 - (c) another thing of value.
- (8) "Continuing education" means education taken by an individual licensed under this chapter in order to meet the education requirements imposed by Section 70D-3-303 to renew a license under this chapter.
- (9) "Covered subsidiary" means a subsidiary that is:
 - (a) owned and controlled by a depository institution; and
 - (b) regulated by a federal banking agency.
- (10) "Federal banking agency" means:
 - (a) the Board of Governors of the Federal Reserve System;
 - (b) the Comptroller of the Currency;
 - (c) the National Credit Union Administration; or
 - (d) the Federal Deposit Insurance Corporation.

- (11) "Licensee" means an individual licensed under this chapter.
- (12)
- (a) Except as provided in Subsection (12)(b), "loan originator" means an individual who for compensation or in the expectation of compensation:
- (i) takes a residential mortgage loan application; or
 - (ii) offers or negotiates a term of a residential mortgage loan.
- (b) "Loan originator" does not include:
- (i) an individual who is engaged solely as a loan processor or underwriter;
 - (ii) unless compensated by a lender, broker, other loan originator, or an agent of a lender, broker, or other loan originator, a person who:
 - (A) only performs real estate brokerage activities; and
 - (B) is licensed under Title 61, Chapter 2f, Real Estate Licensing and Practices Act;
 - (iii) a person who is solely involved in extension of credit relating to a timeshare plan, as defined in 11 U.S.C. Sec. 101(53D); or
 - (iv) an attorney licensed to practice law in this state who, in the course of the attorney's practice as an attorney, assists a person in obtaining a residential mortgage loan.
- (13) "Loan processor or underwriter" means an individual who as an employee performs clerical or support duties:
- (a) at the direction of and subject to the supervision and instruction of:
- (i) a licensee; or
 - (ii) a registered loan originator; and
- (b) as an employee of:
- (i) the licensee; or
 - (ii) a registered loan originator.
- (14) "Nationwide database" means the Nationwide Mortgage Licensing System and Registry, authorized under Secure and Fair Enforcement for Mortgage Licensing, 12 U.S.C. Sec. 5101 et seq.
- (15) "Nontraditional mortgage product" means a mortgage product other than a 30-year fixed rate mortgage.
- (16) "Owned and controlled by a depository institution" may be defined by rule made by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (17) "Prelicensing education" means education taken by an individual seeking to be licensed under this chapter in order to meet the education requirements imposed by Section 70D-3-301 for an individual to obtain a license under this chapter.
- (18) "Registered loan originator" means an individual who:
- (a) engages in an act as a loan originator only as an employee of:
- (i) a depository institution;
 - (ii) a covered subsidiary; or
 - (iii) an institution regulated by the Farm Credit Administration; and
- (b) is registered with, and maintains a unique identifier through, the nationwide database.
- (19)
- (a) Subject to Subsection (19)(b), "residential mortgage loan" means:
- (i) a mortgage loan; or
 - (ii) a loan that is:
 - (A) secured by a mortgage; and
 - (B) subject to Title 70C, Utah Consumer Credit Code.
- (b) A loan described in Subsection (19)(a) is a "residential mortgage loan" only if the mortgage securing the loan is on:

- (i) a dwelling located in the state; or
 - (ii) real property located in the state, upon which is constructed or intended to be constructed a dwelling.
- (20) "Unique identifier" is as defined in 12 U.S.C. Sec. 5102.

Amended by Chapter 97, 2014 General Session

70D-3-103 General powers and duties of commissioner.

Subject to this chapter:

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner may make rules authorized by this chapter, including:
 - (a) providing for an interim procedure for:
 - (i) licensing; and
 - (ii) acceptance of an application; and
 - (b) coordination between filings required under this chapter and:
 - (i) Title 70C, Utah Consumer Credit Code; or
 - (ii) Chapter 2, Mortgage Lending and Servicing Act.
- (2) The commissioner may enter into a relationship or contract with the nationwide database or another entity designated by the nationwide database to do the following related to a licensee or other person subject to this chapter:
 - (a) collect or maintain a record; and
 - (b) process a transaction fee or other fee.
- (3) The commissioner shall regularly report the following to the nationwide database:
 - (a) a violation of this chapter;
 - (b) disciplinary action under Section 70D-3-501; and
 - (c) other information relevant to this chapter.

Enacted by Chapter 72, 2009 General Session