

Part 2 Licensing Requirements and Procedures

70D-3-201 Licensing required -- Exemptions.

- (1)
 - (a) On or after January 1, 2011, except as provided in Subsection (2), an individual described in Subsection (1)(b) may not engage in the business of a loan originator unless that individual:
 - (i) is licensed under this chapter; or
 - (ii) is a registered loan originator.
 - (b) This Subsection (1) applies to an employee or agent of:
 - (i) a depository institution;
 - (ii) a subsidiary of a depository institution; or
 - (iii) an affiliate of a depository institution.
- (2) An individual described in Subsection (1)(b) may engage in the business of a loan originator without being licensed under this chapter or a registered loan originator when acting as a loan processor or underwriter.

Enacted by Chapter 72, 2009 General Session

70D-3-202 Qualifications for licensure.

To qualify for a license under this chapter an individual shall comply with all of the following, the individual:

- (1) shall comply with 12 U.S.C. Sec. 5104 to register with and maintain a unique identifier through the nationwide database;
- (2) may not have had a loan originator license revoked in a governmental jurisdiction;
- (3) may not have been convicted of, or pled guilty or no contest to, a felony:
 - (a) during the seven years preceding the day on which the individual files an application; or
 - (b) at any time, if the felony involves an act of:
 - (i) fraud;
 - (ii) dishonesty;
 - (iii) breach of trust; or
 - (iv) money laundering;
- (4) shall demonstrate financial responsibility, character, and general fitness such as to:
 - (a) command the confidence of the community; and
 - (b) warrant a determination that the individual will operate as a loan originator honestly, fairly, and efficiently within the purposes of this chapter;
- (5) shall be covered by a surety bond posted in accordance with Section 70D-3-205;
- (6) shall complete the prelicensing education required by Section 70D-3-301; and
- (7) shall pass the written examination required by Section 70D-3-302.

Enacted by Chapter 72, 2009 General Session

70D-3-203 Initial licensure procedure.

- (1) To apply for licensure under this chapter an individual shall:
 - (a) file an application with the commissioner in a form prescribed by the commissioner in rule;
 - (b) demonstrate that the individual provided the information to the nationwide database required by 12 U.S.C. Sec. 5104;

- (c) provide the commissioner the individual's unique identifier;
 - (d) consent to the commissioner receiving information obtained by the nationwide database under 12 U.S.C. Sec. 5104, including the results of a criminal history background check; and
 - (e) notwithstanding the requirements applicable to a regulatory fee under Section 63J-1-504, pay a fee of \$200.
- (2) The commissioner shall grant an individual a license if the commissioner finds that the individual complies with:
- (a) Subsection (1); and
 - (b) the qualifications for a license under Section 70D-3-202.
- (3) Subject to this chapter, the commissioner may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, concerning:
- (a) the form of an application under this chapter;
 - (b) the content of an application under this chapter; and
 - (c) the procedures for filing an application under this chapter.

Enacted by Chapter 72, 2009 General Session

70D-3-204 Renewal of license.

- (1) A license issued under this chapter expires on December 31 of each year.
- (2) To qualify to renew a license under this chapter an individual shall:
- (a) meet the requirements of Section 70D-3-202; and
 - (b) complete the annual continuing education requirements of Section 70D-3-303.
- (3) To renew a license under this chapter an individual shall:
- (a) file an application with the commissioner in a form prescribed by the commissioner in rule;
 - (b) demonstrate that the individual continues to meet the requirements related to the nationwide database under 12 U.S.C. Sec. 5104;
 - (c) demonstrate completion of the continuing education requirements; and
 - (d) notwithstanding the requirements applicable to a regulatory fee under Section 63J-1-504, pay a fee of \$100.

Enacted by Chapter 72, 2009 General Session

70D-3-205 Surety bond requirements.

- (1)
- (a) To be licensed under this chapter an individual shall be covered by a surety bond that meets the minimum surety bonding requirements required by rule.
 - (b) If an action is brought against a bond under this chapter, the commissioner may require that another bond be posted.
- (2) The commissioner shall by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish minimum surety bonding requirements under this section, except that the requirements shall:
- (a) reflect the dollar amount of residential mortgage loans originated by a loan originator; and
 - (b) ensure that if in accordance with this chapter a surety bond is posted by an employer or other entity on behalf of an individual, the bond covers the activities of the individual regulated by this chapter.

Enacted by Chapter 72, 2009 General Session

70D-3-206 Challenging information in the nationwide database.

The commissioner shall by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide a process under which an individual may challenge information contained in the nationwide database.

Enacted by Chapter 72, 2009 General Session