

§13-103. License and registration required

1. Requirement. An individual, unless specifically exempted from this Article under subsection 2, may not engage in the business of a mortgage loan originator without obtaining and maintaining annually a license under this Article. Each licensed mortgage loan originator must register with and maintain a valid unique identifier issued by the nationwide mortgage licensing system and registry.

As used in this subsection, "engaging in the business of a mortgage loan originator" means the individual, in a commercial context and habitually or repeatedly:

- A. Takes a residential mortgage loan application and offers or negotiates terms of a residential mortgage loan for compensation or gain; or [PL 2013, c. 295, §1 (NEW).]
- B. Represents 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 the activities described in paragraph A. [PL 2013, c. 295, §1 (NEW).]

An individual is considered to be acting habitually or repeatedly under this subsection if the individual takes a residential mortgage application and offers or negotiates terms of a residential mortgage loan for compensation or gain more than 3 times in a 12-month period. An exemption from the licensure requirements under this Article does not apply if the individual, alone or with others, is found by the administrator to have acted so as to intentionally circumvent or evade the provisions of this subsection. [PL 2013, c. 295, §1 (AMD).]

2. Exemption. The following persons are exempt from this Article.

- A. Registered mortgage loan originators, when acting for a depository institution; a subsidiary that is owned and controlled by a depository institution and that is regulated by a federal banking agency; or an institution regulated by the federal Farm Credit Administration. [PL 2009, c. 362, Pt. B, §1 (NEW).]
- B. An individual who offers or negotiates terms of a residential mortgage loan with or on behalf of an immediate family member of the individual. [PL 2009, c. 362, Pt. B, §1 (NEW).]
- C. An individual who offers or negotiates terms of a residential mortgage loan secured by a dwelling that serves as the individual's residence. [PL 2009, c. 362, Pt. B, §1 (NEW).]
- D. 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. [PL 2009, c. 362, Pt. B, §1 (NEW).]
- E. An employee of a nonprofit organization exempt from taxation under the United States Internal Revenue Code, Section 501(c)(3) and engaged in the financing of housing for low-income people under a program designed specifically for that purpose, to the extent exempted by the administrator by rule, advisory ruling or interpretation, after taking into consideration any rule, advisory ruling or interpretation issued by the United States Department of Housing and Urban Development. [PL 2009, c. 362, Pt. B, §1 (NEW).]
- F. A retail seller of a manufactured home to the extent determined by any rule, advisory ruling or interpretation issued by the United States Department of Housing and Urban Development. [PL 2009, c. 362, Pt. B, §1 (NEW).]
- G. An individual who, during any calendar year or other 12-month period, takes applications for or offers or negotiates terms of not more than the maximum number of residential mortgage loans to qualify for exemption as determined by rule, advisory ruling or interpretation issued by the

administrator or by the United States Department of Housing and Urban Development or successor federal agency responsible for ensuring state compliance with the provisions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008, 12 United States Code, Sections 5101 to 5113. [PL 2011, c. 289, §3 (NEW); PL 2011, c. 289, §5 (AFF).]

H. An individual who acts as a mortgage loan originator in providing financing for the sale of a property owned by that individual as long as that individual does not habitually or repeatedly engage in that activity. [PL 2013, c. 295, §2 (NEW).]

I. An individual who acts as a mortgage loan originator as long as the source of prospective financing does not provide mortgage financing or perform other mortgage loan origination activities habitually or repeatedly. [PL 2013, c. 295, §2 (NEW).]

J. An employee of a government entity who acts as a mortgage loan originator pursuant to that employee's official duties as an employee of that government entity. [PL 2013, c. 295, §2 (NEW).]

[PL 2013, c. 295, §2 (AMD).]

3. Loan processor or underwriter; license not required. A loan processor or underwriter who does not represent to the public, through advertising or other means of communicating or by 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 is not required to obtain and maintain a license under subsection 1.

A. An independent contractor may not engage in residential mortgage loan origination activities as a loan processor or underwriter unless that independent contractor obtains and maintains a license under subsection 1. Each independent contractor loan processor or underwriter licensed as a mortgage loan originator must have and maintain a valid unique identifier issued by the nationwide mortgage licensing system and registry. [PL 2009, c. 362, Pt. B, §1 (NEW).]

[PL 2009, c. 362, Pt. B, §1 (NEW).]

4. Rules; interim procedures and accept applications. For the purposes of implementing an orderly and efficient licensing process, the administrator may establish licensing rules and interim procedures for licensing and acceptance of applications. For previously registered or licensed individuals, the administrator may establish expedited review and licensing procedures. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2009, c. 362, Pt. B, §1 (NEW).]

SECTION HISTORY

PL 2009, c. 362, Pt. B, §1 (NEW). PL 2011, c. 289, §3 (AMD). PL 2011, c. 289, §5 (AFF). PL 2013, c. 295, §§1, 2 (AMD).

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