

Mortgage Lending

principles & practices

5th edition



CALIFORNIA-SPECIFIC SUPPLEMENT

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CA State Elective:

California Mortgage Lending Law

This is the first of two sections that focus on California state-specific pre-licensure education (PE) information. This section starts by providing a description of the role and the responsibilities of Department of Business Oversight in regulating the mortgage lending industry. Also covered are the general provisions of the California Finance Lenders Law and applicable sections of the California Code of Regulations.

Learning Objectives

After completing this section, you will be able to:

- Identify the scope of authority and structure of the Department of Business Oversight with specific focus on the Division of Corporations and Division of Financial Institutions.
- Comply with the general provisions of the California Finance Lenders Law specific to licensing requirements and regulations.
- Adhere to applicable regulations under the California Finance Lenders Law contained in Chapter 3, Title 10 of the California Code of Regulations, commencing with Section 1404.

Mortgage Banker Party who originates, sells, and services mortgage loan and usually acts as the originator and servicer of loans on behalf of large investors, such as insurance companies, pension plans, or Fannie Mae.

Mortgage Broker Party who, for a fee, places loans with investors, but typically does not service such loans.

Mortgage Loan Originator (MLO) As defined by the SAFE Act, an individual who either takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan for compensation or gain.

Person Refers to any of the following: Natural person, corporation, company, Limited Liability Company, partnership, or association.

Unique Identifier A number (or other identifier) assigned by protocols established by the National Mortgage Licensing System and Registry (NMLS) to a single individual on a nationwide basis.

California Regulatory Authorities

The **California Department of Business Oversight (DBO)** provides protection to consumers and services to businesses engaged in financial transactions. The DBO:

- Regulates a variety of financial services, products and professionals.
- **Oversees the operations of state-licensed financial institutions**, including banks, credit unions, money transmitters, issuers of payment instruments and travelers checks, and premium finance companies.
- **Licenses and regulates a variety of financial businesses**, including securities brokers and dealers, investment advisers, deferred deposit (commonly known as payday loans) and certain fiduciaries and lenders.
- Regulates the offer and sale of securities, franchises and off-exchange commodities.

The **DBO mission statement** is to regulate state-licensed financial institutions, products and professionals in order to provide accessibility to a fair and secure financial services marketplace. The Department serves California by enforcing the state's financial services laws and providing resources to Californians to make informed financial decisions.

Visit the **DBO website** at http://www.dbo.ca.gov/About_DBO/default.asp to review and research information covered in this section and in the future.

DOB Scope of Authority

Licensees and industries regulated by the DBO include:

- Banks
- Broker-Dealers and Investment Advisers
- Business and Industrial Development Corporations (BIDCO)
- California Deferred Deposit Originators (commonly known as “payday lenders”)
- California Finance Lenders
- California Residential Mortgage Lenders
- Capital Access Companies
- Check Sellers, Bill Payers and Proraters
- Credit Unions
- Escrow Agents/ Escrow Law
- Foreign (Other Nation) Banks
- Foreign (Other State) Banks
- Franchises
- Industrial Banks
- Local Agency Security Program (LASP)
- Money Transmitters
- Mortgage Loan Originators
- Premium Finance Companies
- Responsible Small Dollar Loans (Pilot Program)
- Securities (Corporate Securities Law of 1968)
- Securities Depository Law
- Trust Companies and Departments

DBO Organizational Structure

The DBO's **commissioner** is **appointed by the governor**; subject to confirmation by the California State Senate. The commissioner shall be a citizen of the United States and a resident of the state for at least 3 years prior to appointment.

- The commission is responsible for the performance of all duties, the exercise of all powers and jurisdiction, and the assumption and discharge of all responsibilities vested by law in the department and the divisions thereunder.
- The commission shall apply the interagency guidance on Nontraditional mortgage products risks issued and September 2006 and the statement on subprime mortgage lending issued in June 2007.

Division of Corporations

The **Division of Corporations (DOC)** provides **consumer protections and licenses** and regulates securities brokers and dealers, investment advisers and financial planners, consumer and commercial lenders, including **mortgage lenders**, deferred deposit or payday lenders, escrow companies, and certain other fiduciaries. The DOC also regulates the offer and sales of securities, franchises, and off-exchange commodities.

Licenses and industries regulated by the DOC include:

- Bucket Shop Law
- **California Finance Lenders**
- **California Residential Mortgage Lenders**
- Capital Access Companies
- Check Sellers, Bill Payers and Proraters
- Deferred Deposit Transactions (commonly known as “payday loans”)
- Escrow Agents/ Escrow Laws
- Franchises (Franchise Investment Law)
- Investment Advisers
- **Mortgage Loan Originators**
- Responsible Small Dollar Loans (Pilot Program)
- Securities (Corporate Securities Law of 1968)
- Securities Depository Law

There are three operational divisions within the DOC:

- Financial Services
- Securities Regulation
- Enforcement

Financial Services Division

The Financial Services Division (FSD) is one of three operational divisions **under the California Corporations Commissioner**. FSD is headed by an Assistant Commissioner and is responsible for the regulation of six separate laws:

1. California Deferred Deposit Transaction Law (Payday Lenders)
2. California Finance Lenders Law
3. Affordable Credit Building Opportunities Pilot Program
4. California Residential Mortgage Lending Act
5. Check Sellers, Bill Payers and Proraters Law
6. Escrow Law

The regulations under the California Finance Lenders Law are contained in Chapter 3, Title 10 of the California Code of Regulations, commencing with Section 1404 (10 C.C.R. §1404, et seq.).

FSD reviews applications for licensure under the laws and, if all requirements are met, companies receive a license. Once a company is licensed, it is included in the regulatory examination cycle for that industry.

FSD regulatory examination cycles vary from one to four years and are conducted at the licensed location. Criteria has been established for each type of license in order to determine the company's compliance with laws and regulations and the financial stability of the business.

Analysis of financial information is also performed by FSD to determine whether special examinations are required and to closely monitor problem companies. FSD may also conduct a regulatory examination for cause at any time.

Violations of the laws (California Financial Code and the California Code of Regulations) are handled by the Department's Enforcement Division (ENF).

FSD also works with the United States Attorney's office and the Department of Housing and Urban Development in the regulation of lenders and independent escrow agents.

FSD staff also utilize the informational resources of the National Association of Consumer Credit Administrators to assist in the regulation of lenders.

Securities Regulation Division

The Securities Regulation Division (SRD) is another of three operational divisions under the California Corporations Commissioner and is also headed by an Assistant Commissioner.

SRD is responsible for the qualification of the offer and sale of securities and the licensing and regulation of broker-dealers, broker-dealer agents and investment advisers, pursuant to the Corporate Securities Law of 1968. SRD also qualifies outstanding securities for secondary market transactions that are not traded on an exempt exchange or marketplace. Finally, SRD is responsible for administration of the Franchise Investment Law under which the offer and sale of franchises are registered.

Enforcement Division

The Enforcement Division (ENF) is headed by a Deputy Commissioner and is responsible for enforcing the laws administered by the Division of Corporations of the Department of Business Oversight, including:

- Bucket Shop Law
- California Commodity Law of 1990
- California Finance Lenders Law
- California Residential Mortgage Lending Act
- Capital Access Company Law
- Check Sellers, Bill Payers, and Proraters Law
- Corporate Securities Law of 1968 (includes Broker Dealers and Investment Advisers)
- Deferred Deposit Transaction Law (commonly known as "payday lenders")
- Escrow Law
- Franchise Investment Law
- Residential Mortgage

Enforcement actions may include (1) **administrative orders to stop violations** of the laws, to deny, censure, suspend, revoke or take possession of Licensees, and to censure, suspend or bar individuals from participating in a regulated industry; and (2) **civil injunctive actions** in the name of the People of the State of California to enjoin violations of the laws, to appoint receivers over companies, and to obtain equitable remedies including rescission, restitution and penalties against the violators.

ENF brings administrative and civil actions for violations of the laws administered by the Division of Corporations. ENF may also assist in the criminal investigation and prosecution of the laws stated above; and refer criminal violations to the appropriate United States Attorney, Attorney General or District Attorney for prosecution.

Division of Financial Institutions

The second division housed within the Department of Business Oversight is the **Division of Financial Institutions (DFI)**.

The Department's Division of Financial Institutions (DFI) **oversees the operations of** state-licensed financial institutions, including banks, credit unions, industrial banks, savings associations, trust companies, foreign banking organizations, business and industrial development corporations, money transmitters, issuers of payment instruments and travelers checks, and premium finance companies.

The Division also administers the **Local Agency Security Program**.

California Bureau of Real Estate (CalBRE)

Those who play a role in both the business of mortgage loan origination and real estate will also want to be familiar with the regulatory authority and resources provided by the California Bureau of Real Estate (CalBRE). The CalBRE website home page can be accessed at <http://dre.ca.gov/>.

The regulation of licenses is an important function of the California Bureau of Real Estate. The CalBRE was established in 1917 with the formation of the first real estate law in the country. With this law, licensing practices and licensees are regulated in a manner that is emulated by many other states. The California Bureau of Real Estate exists to serve the real property market and protects the transactions occurring in the real estate field.

The CalBRE grants licenses to Real Estate Brokers and Salespersons. Before applying for the real estate license, all the formalities of education and experience must be cleared. The CalBRE also handles the renewal of the licenses.

CalBRE is a separate licensing agency and this course focuses solely on the CA-DBO. For reference later, you may want to visit CalBRE website <http://dre.ca.gov/>.

California Finance Lenders Law

The California Finance Lenders Law contained in **Division 9 of the California Financial Code, commencing with Section 22000 (FC DIV 9 CAFLL § 22000 et seq.)**, **requires licensing and regulation of finance lenders and brokers making and brokering consumer and commercial loans**, except as specified; prohibits misrepresentations, fraudulent and deceptive acts in connection with making and brokering of loans; and provides administrative, civil (injunction and ancillary relief) and criminal remedies for violations of the law.

The **General Provisions (22000-22172)** set forth in the California Financial Code Division 9, Chapter 1, includes:

- Article 1 - Definitions
- Article 2 - Exemptions
- Article 3 - Licensing
- Article 4 - Regulations

Article 1 Definitions *(FC DIV 9 CAFLL § 22001- 22014)*

22000 Division is known and may be cited as the "California Finance Lenders Law".

22001 Construed and applied to promote its underlying purposes and polices which are:

- (1) To ensure an adequate supply of credit to borrowers in this state
- (2) To simplify, clarify and modernize the law governing loans made by finance lenders
- (3) To foster competition amount finance lenders
- (4) To protect borrowers against unfair practices by some lenders, having due regard for the interests of legitimate and scrupulous lenders
- (5) To permit and encourage the development of fair and economically sound lending practices
- (6) To encourage and foster a sound economic climate in this state.

California SAFE Comprehensive Mortgage Loan Originator

22004 “Broker” includes any person who is engaged in the business of negotiating or performing any act as broker in connection with loans made by a finance lender.

22005 “Commissioner” means the Commissioner of Business Oversight

22007 “Licensee” means any finance lender or broker who receives a license in accordance with this division.

22008 “Person” means an individual, a corporation, a partnership, a limited liability company, a joint venture, an association, a joint stock company, a trust, an unincorporated organization, a government, or a political subdivision of a government.

22009 “Finance lender” includes any person who is engaged in the business of making consumer loans or making commercial loans. The business of making consumer loans or commercial loans may include lending money and taking, in the name of the lender, or in any other name, in whole or in part, as security for a loan, any contract or obligation involving the forfeiture of rights in or to personal property, the use and possession of which property is retained by other than the mortgagee or lender, or any lien on, assignment of, or power of attorney relative to wages, salary, earnings, income, or commission.

It is the intent of the Legislature that the definition of finance lender shall be interpreted to include a personal property broker as referenced in Section 1 of Article XV of the California Constitution.

22010 “Finance lender” and “broker” do not include employees regularly employed at the location specified in the license of the finance lender or broker, except that an employee, when acting within the scope of his or her employment, shall be exempt from any other law from which his or her employer is exempt.

22011 A “regulatory ceiling provision” is a statement in a section or subdivision that specifies an original bona fide principal loan amount at or above which that section or subdivision does not apply to a loan.

22012 (a) “Branch office license” means a license to engage in business as a finance lender or broker at a location other than the location identified in a finance lender or broker license application or amended application.

(b) “Depository institution” has the same meaning as in Section 3 of the Federal Deposit Insurance Act, and includes any credit union.

(c) “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.

(d) “Nationwide Mortgage 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.

(e) “Residential mortgage loan” means any 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 Section 103(v) of the federal Truth in Lending Act, or residential real estate upon which is constructed or intended to be constructed a dwelling. “Dwelling” means a residential structure that contains one to four units, whether or not that structure is attached to real property. The term includes an individual condominium unit, cooperative unit, mobilehome, or trailer, if it is used as a residence.

(f) “SAFE Act” means the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Public Law 110-289).

(g) “Unique identifier” means a number or other identifier assigned by protocols established by the Nationwide Mortgage Licensing System and Registry.

(h) For purposes of Sections 22109.2, 22109.3, and 22109.5, “nontraditional mortgage product” means any mortgage product other than a 30-year fixed rate mortgage.

(i) For purposes of Section 22109.1, “expungement” means the subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such individual to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty or dismissing the accusation, information, or indictment. With respect to criminal convictions in another state, that state’s definition of expungement will apply.

California Mortgage Lending Law

22013 (a) “Mortgage loan originator” means an individual who, for compensation or gain, or in the expectation of compensation or gain, takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan.

(b) Mortgage loan originator ***does not*** include any of the following:

- (1) An individual who **performs purely administrative or clerical tasks** on behalf of a person meeting the definition of a mortgage loan originator, except as provided in subdivision (c) of Section 22014. The term “administrative or clerical tasks” means the receipt, collection, and distribution of information common for the processing or underwriting of a loan in the mortgage industry and communication with a consumer to obtain information necessary for the processing or underwriting of a residential mortgage 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.
- (2) An individual who **solely renegotiates terms for existing mortgage loans** held or serviced by his or her employer and who does not otherwise act as a mortgage loan originator, unless the United States Department of Housing and Urban Development or a court of competent jurisdiction determines that the SAFE Act requires such an employee to be licensed as a mortgage loan originator under state laws implementing the SAFE Act.
- (3) An individual that is **solely involved in extensions of credit relating to timeshare plans**, as that term is defined in Section 101(53D) of Title 11 of the United States Code.
- (4) An individual licensed as a mortgage loan originator pursuant to the provisions of Article 2.1 (commencing with Section 10166.01) of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code and the SAFE Act.
- (5) An individual who is an **employee of a federal, state, or local government agency** or housing finance agency and who acts as a loan originator only pursuant to his or her official duties as an employee of the federal, state, or local government agency or housing finance agency.
 - (A) For purposes of this paragraph, the term “employee” means an individual whose manner and means of performance of work are subject to the right of control of, or are controlled by, a person, and whose compensation for federal income tax purposes is reported, or required to be reported, on a W-2 form issued by the controlling person.
 - (B) For purposes of this paragraph, the term “housing finance agency” means any authority:
 - (i) That is chartered by a state to help meet the affordable housing needs of the residents of the state.
 - (ii) That is supervised directly or indirectly by the state government.
 - (iii) That is subject to audit and review by the state in which it operates.
- (6) (A) An employee of a bona fide nonprofit organization who **exclusively originates residential mortgage loans for a bona fide nonprofit organization**, and who acts as a mortgage loan originator only with respect to residential mortgage loans with terms that are favorable to the borrower.
 - (B) To qualify for the exemption under this paragraph, the bona fide nonprofit organization under this paragraph **must register** with the department on a form prescribed by the commissioner, **along with documentation of all of the following by December 31 of each year**:
 - (i) Status of a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code of 1986.
 - (ii) That the organization promotes affordable housing or provides home ownership education or similar services.
 - (iii) That the organization conducts its activities in a manner that serves public or charitable purposes, rather than commercial purposes.
 - (iv) That the organization receives funding and revenue, and charges fees in a manner that does not incentivize the organization or its employees to act other than in the best interests of its clients.
 - (v) That the organization compensates employees in a manner that does not incentivize employees to act other than in the best interests of its clients.

California SAFE Comprehensive Mortgage Loan Originator

- (vi) That the organization provides to, or identifies for, the borrower residential mortgage loans with terms favorable to the borrower and comparable to mortgage loans and housing assistance provided under government housing assistance programs.
 - (vii) That the organization is certified by the United States Department of Housing and Urban Development as a housing counselor who engages solely in traditional housing counseling services, if applicable.
- (C) The Commissioner **may periodically require reports regarding the activities of the bona fide nonprofit organization**, and shall examine the nonprofit organization's books and records in accordance with the regulations of the United States Department of Housing and Urban Development, or any successor guidance or requirement by the Consumer Financial Protection Bureau. If the nonprofit organization fails to provide documentation as required by subparagraph (B), or if it **does not continue to meet the criteria** under subparagraph (B), the commissioner **may revoke the nonprofit organization's status** as a registered bona fide nonprofit organization.
- (D) For residential mortgage loans to have terms that are favorable to the borrower, **the terms shall be consistent** with loan origination **in a public or charitable context**, rather than a **commercial context**.
- (E) In making its determinations and examinations, the **commissioner may rely on the receipt** and review of:
- (i) Reports filed with federal, state, or local housing agencies and authorities.
 - (ii) Reports and attestations prescribed by the commissioner by rule or order.
- (c) "Registered mortgage loan originator" means any individual who is all of the following:
- (1) Meets the definition of mortgage loan originator.
 - (2) Is an employee of a depository institution, a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency, or an institution regulated by the Farm Credit Administration.
 - (3) Is registered with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry.
- (d) "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 mortgage loan originator licensed by the state or a registered mortgage loan originator.
- 22014** (a) A loan processor or underwriter 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 shall not be required to be licensed as a mortgage loan originator.
- (b) 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.
- (c) An independent contractor may not engage in the activities of a loan processor or underwriter for a residential mortgage loan unless the independent contractor loan processor or underwriter obtains and maintains a mortgage loan originator license under this division. Each independent contractor loan processor or underwriter licensed as a mortgage loan originator shall have and maintain a valid unique identifier issued by the Nationwide Mortgage Licensing System and Registry.

1.1 Knowledge Check

1. *The Commissioner of the California Department of Business Oversight is*
 - a. appointed by the Banking Board.
 - b. appointed by the Governor.
 - c. appointed by the State Legislature.
 - d. elected by the voters of California.
2. *Which division of the California Department of Corporations handles violations of the California Financial Code and the California Code of Regulations?*
 - a. Enforcement
 - b. Executive
 - c. Financial Services
 - d. Securities Regulation
3. *An individual who takes a mortgage loan application or negotiates the terms of mortgage loan for compensation is a mortgage*
 - a. lender.
 - b. loan correspondent.
 - c. loan originator.
 - d. mortgage broker.

Article 2 Exemptions (FC DIV 9 CAFL § 22050 - 22065)

22050 (a) This division does not apply to any person doing business under any law of any state or of the United States relating to banks, trust companies, savings and loan associations, insurance premium finance agencies, credit unions, small business investment companies, community advantage lenders, California business and industrial development corporations **when acting under federal law or other state authority, or licensed pawnbrokers when acting under the authority of that license. Community advantage lender** means *an entity authorized by the United States Small Business Administration to deliver community advantage loans.*

- (b) This division does not apply to a **check casher who holds a valid permit** issued pursuant to Section 1789.37 of the Civil Code when acting under the authority of that permit, and shall not apply to a person holding a valid license issued pursuant to Section 23005 of the Financial Code when acting under the authority of that license.
- (c) This division does not apply to a **college or university making a loan** for the purpose of permitting a person to pursue a program or course of study leading to a degree or certificate.
- (d) This division does not apply to a **broker-dealer acting pursuant to a certificate** then in effect and issued pursuant to Section 25211 of the Corporations Code.
- (e) This division does not apply to **any person who makes five or fewer loans in a 12-month period**, these loans are commercial loans as defined in Section 22502, and the loans are incidental to the business of the person relying upon the exemption.

22051 This division also **does not** apply to the following:

- (a) Any nonprofit cooperative association organized under Chapter 1 (commencing with Section 54001) of **Division 20 of the Food and Agricultural Code** that loans or advances money in connection with any activity mentioned in that chapter.
- (b) Any corporation, association, syndicate, joint stock company, or partnership engaged **exclusively in the business of** marketing agricultural, horticultural, viticultural, dairy, livestock, poultry, or bee products on a cooperative nonprofit basis that loans or advances money to its members or in connection with those businesses.

- (c) Any **corporation securing money or credit from any federal intermediate credit bank organized** and existing pursuant to the provisions of an act of Congress entitled “Agricultural Credits Act of 1923” that loans or advances money or credit so secured.
- (d) Any corporation created pursuant to the provisions of Part 5 (commencing with Section 14000) of Division 3 of Title 1 of the Corporations Code.

22052 This division **does not** apply to any loan of credit made by a person not licensed under this division pursuant to a plan **having all of the following characteristics:**

- (a) **Credit cards** issued pursuant to a written application and to the plan whereby the **organization issuing the cards can acquire those obligations** that its members in good standing incur with those persons with whom the organization has entered into written agreements setting forth the plan, and where the obligations are incurred pursuant to those agreements; or whereby the organization issuing the cards can extend credit to its members.
- (b) The **fee for the credit cards is designed to cover the administrative costs** of the plan **and is imposed** upon the issuance of the card and on annual renewal dates thereafter.
- (c) Any charges, discounts, or fees resulting from the acquisition of the charges **is paid to the organization issuing the credit cards** by the persons, corporations, or associations with whom the organization has entered into written agreements.

22057 This division **does not** apply to any loan that is made or arranged by any person licensed as a real estate broker by the state and secured by a lien on real property, or to any licensed real estate broker when making such a loan. A licensed real estate broker **may make a loan secured by a lien on real property for sale to a finance lender or arrange for a loan secured by a lien** on real property to be made by a finance lender without obtaining a license under this division.

22059 A license to act as a broker under this division **does not authorize** the licensee to negotiate or perform any act as a broker in connection with loans made or to be made by a lender not licensed as a finance lender under this division.

22061 This division **does not apply to a loan made or arranged by a licensed residential mortgage lender or servicer when acting under the authority of that license.**

22065 (a) Persons not subject to this division may **apply to the commissioner** for an exempt company registration **for the purpose of sponsoring one or more individuals** required to be licensed as mortgage loan originators pursuant to the federal SAFE Act.

(b) An exempt person applying under the exempt company registration procedure shall **comply with all rules and orders that the commissioner deems necessary** to ensure compliance with the federal SAFE Act and shall pay an annual registration fee established by the commissioner.

(c) (1) A mortgage loan originator who is an **insurance producer eligible for licensure** pursuant to this section shall meet all of the following requirements:

- (A) Be covered under an exclusive written contract with, and originate mortgage loans solely on behalf of, that exempt person.
- (B) Hold a current insurance producer license under Article 3 (commencing with Section 1631) of Chapter 5 of Part 2 of Division 1 of the Insurance Code that is not suspended or revoked.
- (C) Have a current notice of appointment under Article 9 (commencing with Section 1702) of Chapter 5 of Part 2 of Division 1 of the Insurance Code from an insurer that controls, is controlled by, or is under common control with that exempt person.

(2) A licensed mortgage loan originator who is an **insurance producer for an insurer** authorized to do business in this state may originate loans on behalf of a person registered pursuant to subdivision (a) or on behalf of a licensed finance lender that originates loans exclusively for a single person that is not subject to licensure pursuant to subdivision (a) of Section 22050.

Article 3 Licensing **(FC DIV 9 CAFL § 22100 - 22112)**

22100 (a) No person shall engage in the business of a finance **lender or broker** without obtaining a license from the commissioner.

- (b) Every licensee engaging in the business of **making or brokering residential mortgage loans** shall require that every mortgage loan originator employed or compensated by that licensee obtains and maintains a mortgage loan originator license from the commissioner under this division or Division 20 (commencing with Section 50000), or has first obtained a license endorsement from the Commissioner of Real Estate pursuant to Article 2.1 (commencing with Section 10166.01) of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code.
- (c) A finance lender or broker shall not employ a mortgage loan originator whose license or **license endorsement has lapsed**.
- (d) A finance lender or broker may not make or broker a residential mortgage loan unless that **loan is offered by, negotiated by, or applied for through** a licensed mortgage loan originator.
- (e) Every licensee engaged in the business of making or brokering residential mortgage loans and every mortgage loan originator licensed under this division **shall register with and maintain a valid unique idnetifier** issued by the Nationwide Mortgage Licensing System and Registry.
- (f) An individual shall not engage in the business of a mortgage loan originator with respect to any dwelling located in this state without **first obtaining and maintaining annually** a license in accordance with the requirements of this division and any rules promulgated by the commissioner under this chapter.
- (g) A registered mortgage loan originator, as defined in subdivision (c) of Section 22013, is **exempt from licensure** under this section **when he or she is employed by:**
 - (1) A depository institution.
 - (2) A subsidiary of a depository institution that is owned and controlled by a depository institution and regulated by a federal banking agency.
 - (3) An institution regulated by the Farm Credit Administration.

22101 (a) An application for a license as a finance lender or broker under this division shall **be in the form and contain the information** that the commissioner may by rule require and shall be filed upon **payment of the fee specified** in Section 22103.

- (b) Notwithstanding any other provision of law, an applicant who does not currently hold a license as a finance lender or broker under this division shall furnish with his or her application, a full set of **fingerprints and related information** for purposes of the commissioner conducting a **criminal history record check**. The commissioner shall obtain and receive criminal history information from the Department of Justice and the Federal Bureau of Investigation pursuant to Section 22101.5.
- (c) Nothing in this section shall be construed to prevent a licensee from engaging in the business of a finance lender through a subsidiary corporation **if the subsidiary corporation is licensed** pursuant to this division.
- (d) For purposes of this section, **subsidiary corporation** means *a corporation that is wholly owned by a licensee*.
- (e) A new application **shall not** be required for a change in the address of an existing location previously licensed **under this division**. However, the licensee shall comply with the requirements of Section 22153.
- (f) Notwithstanding subdivisions (a) to (e), inclusive, the commissioner may by rule require an application to be made through the Nationwide Mortgage Licensing System and Registry, and may require fees, fingerprints, financial statements, supporting documents, changes of address, and any other information, and amendments or modifications thereto, to be submitted in the same manner.

22101.5 (a) The **commissioner shall submit** to the Department of Justice fingerprint images and related information required by the Department of Justice of all finance lender and broker license candidates, as defined by subdivision (a) of Section 22101, **for purposes of obtaining information as to the existence and content** of a record of state or federal convictions, state or federal arrests, and information as to the existence and content of a record of state or federal arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance pending trial or appeal.

- (b) When received, the Department of Justice shall **forward to the Federal Bureau of Investigation requests for federal summary criminal history** information received pursuant to this section. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate a response to the commissioner.
- (c) The Department of Justice shall provide a response to the commissioner pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.
- (d) The commissioner shall request from the Department of Justice subsequent arrest notification service, as provided pursuant to Section 11105.2 of the Penal Code, for license candidates described in subdivision (a).
- (e) The Department of Justice shall **charge a fee** sufficient to **cover the costs** of processing the requests pursuant to this section.
- (f) Notwithstanding subdivisions (a) to (e), inclusive, the commissioner may by rule require fingerprints submitted by an applicant to be submitted to the Nationwide Mortgage Licensing System and Registry in addition to the Department of Justice.

22102 (a) A finance lender or broker licensee seeking to engage in business at a **new location shall submit an application for a branch office license** to the commissioner at **least 10 days before engaging in business** at a new location and pay the fee required by Section 22103. The commissioner may require an applicant seeking to engage in business at a new location to submit its application, or parts thereof, through the Nationwide Mortgage Licensing System and Registry.

- (b) The licensee may **engage in business at the new location 10 days after the date of submission** of a branch office application.
- (c) (1) The commissioner shall approve or deny the person responsible for the lending activity at the new location in accordance with Section 22109, and shall **notify the licensee of this decision within 90 days of the date of receipt of the application**.
- (2) If the commissioner **denies the application**, the licensee shall, **within 10 days of the date of receipt of notification of the commissioner's denial, submit a new application** to the commissioner designating a **different person** responsible for the lending activity at the new location. The commissioner shall approve or deny the different person as provided in paragraph (1).
- (d) A licensee **shall not** engage in business at a new location in a name **other than a name approved** by the commissioner.
- (e) The commissioner may adopt regulations to implement the requirements of this section.
- (f) A branch office license to engage in business at a new location shall be issued in accordance with this section. **A change of street address** of a place of business designated in a license shall be made in accordance with Section 22153 and **shall not constitute a new location subject to the requirements of this section**.

22104 At the **time of filing the application** for a finance lender, broker, or branch office license, the applicant shall pay to the commissioner the sum of one hundred dollars (**\$100**) as a fee for **investigating the application**, plus the cost of fingerprint processing and the criminal history record check under Section 22101.5, and two hundred dollars (**\$200**) **as an application fee**. The investigation fee, including the amount for the criminal history record check, and the application fee are not refundable if an application is denied or withdrawn.

- (a) The applicant shall file with the application for a **finance lender or broker license** financial statements prepared in accordance with generally accepted accounting principles and acceptable to the commissioner that indicate a **net worth of at least twenty-five thousand dollars (\$25,000)**. Except as provided in subdivisions (b) and (c), a licensee **shall maintain** a net worth of at least twenty-five thousand dollars (\$25,000) at all times.
- (b) A licensed finance lender or broker, that **employs one or more** mortgage loan originators and that makes residential mortgage loans, shall continuously **maintain a minimum net worth** of at least **two hundred fifty thousand dollars (\$250,000)**.

- (c) A licensed finance broker, that employs one or more mortgage loan originators and that **arranges, but does not make, residential mortgage loans**, shall continuously maintain a minimum **net worth** of at least **fifty thousand dollars (\$50,000)**.
- (d) The commissioner may promulgate rules or regulations with respect to the requirements for minimum net worth, as are necessary to accomplish the purposes of this division and comply with the SAFE Act.

22105 Upon the filing of an application pursuant to Section 22101 and the payment of the fees, the **commissioner shall investigate** the applicant and its general partners and persons owning or controlling, directly or indirectly, **10 percent or more of the outstanding interests or any person responsible for the conduct of the applicant's lending activities in this state, if the applicant is a partnership**. If the applicant is a corporation, trust, limited liability company, or association, including an unincorporated organization, the commissioner shall investigate the applicant, its principal officers, directors, managing members, and persons owning or controlling, directly or indirectly, 10 percent or more of the outstanding equity securities or any person responsible for the conduct of the applicant's lending activities in this state. Upon the filing of an application pursuant to Section 22102 and the payment of the fees, the commissioner shall investigate the person responsible for the lending activity of the licensee at the new location described in the application. The investigation may be limited to information that was not included in prior applications filed pursuant to this division. If the commissioner determines that the applicant has satisfied this division and does not find facts constituting reasons for denial under Section 22109, the commissioner shall issue and deliver a license to the applicant.

For the purposes of this section, **principal officers** shall mean *president, chief executive officer, treasurer, and chief financial officer, as may be applicable, and any other officer with direct responsibility for the conduct of the applicant's lending activities within the state.*

22105.1 (a) An applicant for a mortgage loan originator license shall apply by **submitting the uniform form prescribed for such purpose by the Nationwide Mortgage Licensing System and Registry**. The commissioner may require the submission of additional information or supporting documentation to the department.

- (b) Section 461 of the Business and Professions Code shall not be applicable to the Department of Corporations when using a national uniform application adopted or approved for use by the Nationwide Mortgage Licensing System and Registry in connection with the SAFE Act.
- (c) In connection with an application for a license as a mortgage loan originator, the applicant shall, at a minimum, furnish to the Nationwide Mortgage Licensing System and Registry information concerning the applicant's identity, including the following:
 - (1) **Fingerprint images and related information**, for purposes of performing a federal, or both a state and federal, criminal history background check.
 - (2) **Personal history and experience** in a form prescribed by the Nationwide Mortgage Licensing System and Registry, including the submission of authorization for the Nationwide Mortgage Licensing System and Registry and the commissioner to obtain both of the following:
 - (A) An **independent credit report** obtained from a consumer reporting agency.
 - (B) Information related to any **administrative, civil, or criminal findings** by any governmental jurisdiction.
- (d) The commissioner may ask the Nationwide Mortgage Licensing System and Registry to obtain **state criminal history background check information** on applicants described in subdivision (a) using the procedures set forth in subdivisions (e) and (f).
- (e) If the Nationwide Mortgage Licensing System and Registry electronically submits fingerprint images and related information, as required by the Department of Justice, for an applicant for a mortgage loan originator license, for the purposes of obtaining information as to the existence and content of a record of state convictions and state arrests and to the existence and content of a record of state arrests for which the Department of Justice establishes that the person is free on bail or on his or her recognizance pending trial or appeal, the Department of Justice shall provide an electronic response to the Nationwide Mortgage Licensing System and Registry pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code, and shall provide the same electronic response to the commissioner.

- (f) The Nationwide Mortgage Licensing System and Registry may request from the Department of Justice subsequent arrest notification service, as provided pursuant to Section 11105.2 of the Penal Code, for persons described in subdivision (a). The Department of Justice shall provide the same electronic response to the commissioner.
- (g) The Department of Justice shall charge a fee sufficient to cover the cost of processing the requests described in this section.

22105.2 (a) The **commissioner is authorized to establish relationships or contracts** with the Nationwide Mortgage Licensing System and Registry or other entities designated by the Nationwide Mortgage 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 division.

- (b) For the purpose of participating in the Nationwide Mortgage Licensing System and Registry, the commissioner is **authorized to waive or modify**, in whole or in part, by rule, regulation, or order, any or all of the requirements of this division and to establish new requirements as reasonably necessary to participate in the Nationwide Mortgage Licensing System and Registry.
- (c) The commissioner may **use the Nationwide Mortgage Licensing System and Registry** as a **channeling agent** for requesting information from, and distributing information to, the Department of Justice or any governmental agency.
- (d) The commissioner may use the Nationwide Mortgage Licensing System and Registry as a **channeling agent** for requesting and distributing information to and from any source so directed by the commissioner.
- (e) The commissioner shall establish a process where applicants and licensees **may challenge information entered** into the Nationwide Mortgage Licensing System and Registry by the commissioner.

22105.3 (a) Except as otherwise provided in Section 1512 of the SAFE Act, the requirements under any federal or state law regarding the privacy or confidentiality of any information or material provided to the Nationwide Mortgage 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 that information or material, shall continue to apply to the information or material after the information or material has been disclosed to the Nationwide Mortgage 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 federal or state law.**

- (b) For these purposes, the commissioner is authorized to enter agreements or share 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, regulation, or order of the commissioner.
- (c) Information or material that is **subject to a privilege or confidentiality** under subdivision (a) **shall not be subject to the following:**
 - (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 state.
 - (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 Mortgage 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.
 - (3) 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 originators that is included in the Nationwide Mortgage Licensing System and Registry for access by the public.

22105.4 The commissioner shall **regularly report violations** of this division, as well as enforcement actions and other relevant information, to the Nationwide Mortgage Licensing System and Registry, to the extent that information is public record.

22106 (a) The finance lender or broker license shall state **the name of the licensee**, and if the licensee is a partnership, **the names of its general partners**, and if a corporation or an association, the **date and place of**

its incorporation or organization, and the **address of the licensee's principal business location**. On the approval and licensing of a location pursuant to Section 22101 or 22102, the commissioner shall issue an original license endorsed to show the address of the authorized location and, if applicable, the name of the subsidiary corporation licensed to operate the location. The license shall state whether the licensee is licensed as a finance lender or a broker.

- (b) An **application for a license for a business location outside this state** shall constitute an agreement by the applicant to **do all of the following**:
- (1) Make the licensee's books, accounts, papers, records, and files available to the commissioner or the commissioner's representatives in this state.
 - (2) Pay the reasonable expenses for travel, meals, and lodging of the commissioner or the commissioner's representatives incurred during any investigation or examination made at the licensee's location outside this state.

A licensee located outside this state is not required to maintain books and records regarding licensed loans separate from those for other loans if the licensed loans can be readily identified.

22107 (a) Each finance lender and broker licensee shall **pay to the commissioner its pro rata share of all costs and expenses**, including the costs and expenses associated with the licensing of mortgage loan originators it employs, reasonably incurred in the administration of this division, as estimated by the commissioner, for the ensuing year and any deficit actually incurred or anticipated in the administration of the program in the year in which the assessment is made. The pro rata share shall be the proportion that a licensee's gross income bears to the aggregate gross income of all licensees as shown by the annual financial reports to the commissioner, for the costs and expenses remaining after the amount assessed pursuant to subdivision (c).

- (b) On or before the **30th day of September** in each year, the commissioner shall notify each licensee of the amount assessed and levied against it and that amount shall be **paid by October 31**. If payment is not made by October 31, the commissioner shall assess and **collect a penalty**, in addition to the assessment, of **1 percent of the assessment for each month** or part of a month that the payment is delayed or withheld.
- (c) In the levying and **collection of the assessment**, a licensee shall neither be assessed for nor be permitted to **pay less than** two hundred fifty dollars (**\$250**) per licensed location per year.
- (d) If a licensee **fails to pay** the assessment **on or before the 31st day of October**, the commissioner may by order summarily **suspend or revoke** the certificate issued to the licensee. If, after an order is made, a request for **hearing is filed in writing within 30 days**, and a hearing is **not held within 60 days** thereafter, the **order is deemed rescinded** as of its effective date. During any period when its certificate is revoked or suspended, a finance lender or broker licensee and any mortgage loan originator licensee employed by the finance lender or broker shall not conduct business pursuant to this division except as may be permitted by order of the commissioner. However, the revocation, suspension, or surrender of a certificate shall not affect the powers of the commissioner as provided in this division.
- (e) The commissioner shall, by rule, establish the timelines, fees, and assessments applicable to applicants for original mortgage loan originator licenses, license renewals, and license changes under this division.
- (f) Notwithstanding subdivisions (a) to (e), inclusive, the commissioner may by rule require licensees to pay assessments through the Nationwide Mortgage Licensing System and Registry.

22108 (a) The commissioner may by rule require licensees to file, at the times that he or she may specify, the information that he or she may reasonably require regarding any changes in the information provided in any application filed pursuant to this division.

- (b) The commissioner may by rule require a licensee to file information through the Nationwide Mortgage Licensing System and Registry.

22109 (a) Upon reasonable notice and opportunity to be heard, the commissioner may **deny** the **application for a finance lender or broker license** for any of the following reasons:

- (1) A **false statement of a material fact** has been made in the application.

- (2) The applicant or an officer, director, general partner, person responsible for the applicant's lending activities in this state, or person owning or controlling, directly or indirectly, 10 percent or more of the outstanding interests or equity securities of the applicant has, within the last 10 years, **been convicted of or pleaded nolo contendere to a crime, or committed an act involving dishonesty, fraud, or deceit**, if the crime or act is substantially related to the qualifications, functions, or duties of a person engaged in business in accordance with this division.
 - (3) The applicant or an officer, director, general partner, person responsible for the applicant's lending activities in this state, or person owning or controlling, directly or indirectly, 10 percent or more of the outstanding interests or equity securities of the applicant **has violated any provision of this division or the rules** thereunder or any similar regulatory scheme of the State of California or a foreign jurisdiction.
 - (4) The **applicant employs** a mortgage loan originator who is **not licensed**, or has not initiated an application to become licensed, pursuant to this division.
- (b) The application shall be considered withdrawn within the meaning of this section if the applicant **fails to respond to a written notification of a deficiency** in the application within **90 days** of the date of the notification.
- (c) The commissioner shall, **within 60 days** from the filing of a full and complete application for a license with the fees, **either issue a license or file a statement of issues** prepared in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

22109.1 (a) The commissioner shall **deny** an application for a **mortgage loan originator license** unless the commissioner makes, at a minimum, the following findings:

- (1) The applicant **has never had** a mortgage loan originator **license revoked** in any governmental jurisdiction, except that a subsequent formal vacation of a revocation shall not be deemed a revocation.
 - (2) (A) The applicant **has not been** convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court during the **seven-year period preceding the date of the application for licensing and registration, or 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. Whether a particular crime is classified as a felony shall be determined by the law of the jurisdiction in which an individual is convicted.
 - (B) For purposes of this paragraph, an expunged or **pardoned felony conviction shall not require denial of an application**. However, the commissioner may consider the underlying crime, facts, or circumstances of an expunged or pardoned felony conviction when determining the eligibility of an applicant for licensure under this paragraph or paragraph (3).
 - (3) The applicant has **demonstrated such financial responsibility, character, and general fitness 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 division.
 - (4) The applicant has completed the **prelicensing education requirement** described in Section 22109.2.
 - (5) The applicant has **passed a written test that meets the test requirement** described in Section 22109.3.
 - (6) The applicant **is employed** by, and subject to the supervision of, a finance lender or broker that has **obtained a license** from the commissioner pursuant to this division.
- (b) Before denying a license under this section, the commissioner shall proceed as prescribed by Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code and shall have all the powers granted under that chapter.

22109.2 (a) An applicant for a mortgage loan originator license shall complete at **least 20 hours** of education approved in accordance with subdivision (b). The education shall include at least the following:

- (1) **Three hours** of instruction on **federal law and regulations**.
- (2) **Three hours of ethics**, which shall include instruction on fraud, consumer protection, and fair lending issues.
- (3) **Two hours** of training related to lending standards for the **nontraditional mortgage product marketplace**.

- (b) For purposes of subdivision (a), prelicensing education courses shall be reviewed and **approved by** the Nationwide Mortgage Licensing System and Registry. 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 Nationwide Mortgage 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.
- (d) Prelicensing education may be offered either in a **classroom, online, or by any other means approved** by the Nationwide Mortgage Licensing System and Registry.
- (e) The prelicensing education requirements approved by the Nationwide Mortgage Licensing System and Registry for any state other than California shall be accepted as credit toward completion of prelicensing education requirements in California.
- (f) An individual previously licensed under this division as a mortgage loan originator, **applying to be licensed again**, shall **prove** that he or she has **completed all of the continuing education requirements for the year in which the license was last held**.

22109.3 (a) An applicant for a mortgage loan originator license shall pass a **qualified written test** developed by the Nationwide Mortgage Licensing System and Registry and administered by a test provider approved by the Nationwide Mortgage Licensing System and Registry.

- (b) A written test shall not be treated as a qualified written test for purposes of subdivision (a) unless the test adequately **measures the applicant's knowledge and comprehension in appropriate subject areas**, including all of the following:
 - (1) Ethics.
 - (2) Federal law and regulation relating to mortgage origination.
 - (3) State law and regulation relating to mortgage origination.
 - (4) Federal and state 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 approved by the Nationwide Mortgage Licensing System and Registry from providing a test at the location of the employer of the applicant or 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 administered pursuant to this section unless the individual achieves a test score of not less than **75 percent** of correct answers to questions.
- (e) An individual who fails the qualified written test **may retake the test up to three consecutive times**, although **at least 30 days shall pass** between each retesting.
- (f) An applicant who **fails three consecutive retests** shall **wait at least six months** before retesting.
- (g) 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.

22109.4 (a) A mortgage loan originator shall comply with the requirements of this section on or before **December 31 of every year**.

- (b) The minimum standards for license renewal for a mortgage loan originator shall include the following:
 - (1) The mortgage loan originator continues to meet the **minimum standards** for license issuance under Section 22109.1.
 - (2) The mortgage loan originator has satisfied the **annual continuing education** requirements described in Section 22109.5.
 - (3) The mortgage loan originator, or the finance lender or broker employing the mortgage loan originator, has **paid all required fees for renewal** of the license as provided in Section 22107.

- (c) The license of a mortgage loan originator **failing to satisfy the minimum standards** for license renewal **shall expire at midnight on December 31**, except as provided in subdivision (h) of Section 22109.5. The commissioner may adopt procedures for the reinstatement of expired licenses consistent with the standards established by the Nationwide Mortgage Licensing System and Registry.

22109.5 (a) A licensed mortgage loan originator shall complete at least **eight hours of continuing education** approved in accordance with subdivision (b). The continuing education shall include at least the following:

- (1) **Three hours** of instruction on **federal law and regulations**.
 - (2) **Two hours of ethics**, which shall include instruction on fraud, consumer protection, and fair lending issues.
 - (3) **Two hours** of training related to lending standards for the **nontraditional mortgage product marketplace**.
- (b) For purposes of this section, continuing education courses shall be reviewed and **approved by** the Nationwide Mortgage Licensing System and Registry. 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 Nationwide Mortgage Licensing System and 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 the employer or entity.
- (d) Continuing education may be offered in a classroom, online, and by any other means approved by the Nationwide Mortgage Licensing System and Registry.
- (e) Except as provided in subdivision (i), a licensed mortgage loan originator:
- (1) May only receive credit for a continuing education course **in the year in which the course is taken**.
 - (2) May **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 **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**.
- (g) A person who has successfully completed continuing education requirements approved by the Nationwide Mortgage Licensing System and Registry for any state other than California shall be granted credit toward completion of continuing education requirements in California.
- (h) A licensed mortgage loan originator who subsequently **becomes unlicensed** 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.
- (i) A person meeting the requirements of paragraphs (1) and (3) of subdivision (b) of Section 22109.4 may correct any deficiency in continuing education as established by rule or regulation of the commissioner.

22109.6 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 Mortgage Licensing System and Registry**. In order to carry out this requirement, the commissioner is authorized to participate in the Nationwide Mortgage Licensing System and Registry. For this purpose, the commissioner may establish by rule, regulation, or order, requirements as necessary, including, but not limited to, the following:

- (a) **Background information** for the following:
- (1) Criminal history through fingerprint or other databases.
 - (2) Civil or administrative records.
 - (3) Credit history.
 - (4) Any other information as deemed necessary by the Nationwide Mortgage Licensing System and Registry.

- (b) The **payment of fees** to apply for or renew licenses through the Nationwide Mortgage Licensing System and Registry.
- (c) The setting or resetting as necessary of **renewal or reporting dates**.
- (d) Requirements for amending or surrendering a license or any other activities as the commissioner deems necessary for participation in the Nationwide Mortgage Licensing System and Registry.

22112 (a) A licensee shall **maintain a surety bond** in accordance with this subdivision in a minimum amount of twenty-five thousand dollars (**\$25,000**). The bond shall be payable to the commissioner and issued by an insurer authorized to do business in this state. An original surety bond, including any and all riders and endorsements executed subsequent to the effective date of the bond, shall be filed with the commissioner within **10 days of execution**. For licensees with **multiple licensed locations, only one surety bond is required**. The bond shall be used for the recovery of expenses, fines, and fees levied by the commissioner in accordance with this division or for losses or damages incurred by borrowers or consumers as the result of a licensee's noncompliance with the requirements of this division.

- (b) When an action is commenced on a licensee's bond, the commissioner may require the filing of a **new bond**. Immediately upon recovery of any action on the bond, the licensee shall file a new bond. **Failure to file a new bond within 10 days** of the recovery on a bond, or within 10 days after notification by the commissioner that a new bond is required, constitutes sufficient grounds for the **suspension or revocation** of the license.
- (c) The commissioner may by rule require a **higher bond amount** for a licensee who employs **one or more** mortgage loan originators and who makes or arranges residential mortgage loans, based on the **dollar amount of residential mortgage loans originated** by that licensee and any mortgage loan originators employed by that licensee. Every mortgage loan originator employed by the licensee shall be covered by the surety bond.

1.2 Knowledge Check

1. *Loan originator applicants must complete _____ hours of pre-licensing instruction in a course or program of study reviewed and approved by the NMLSR.*
2. *The written test can be retaken three consecutive times, provided the period between taking the tests is at least _____ days.*
3. *If an individual fails the third consecutive written test, the individual must wait at least _____ months before taking the test again.*
4. *A mortgage loan originator must complete at least _____ hours of continuing education every calendar year.*
5. *The annual continuing education course or program of study for mortgage loan originators must include _____ hours on training related to lending standards for the nontraditional mortgage product marketplace.*
6. *The operations manager of a mortgage broker business must take a written test and achieve a score of at least _____ to pass.*

Article 4 Regulations (FC DIV 9 CAFL § 22151 - 22172)

22151 (a) A **finance lender license, broker license, and the license of every mortgage loan originator** employed by a lender or finance broker, along with any currently effective order of the commissioner approving a different name pursuant to Section 22155, **shall be conspicuously posted in the place of business authorized by the license.**

(b) **A license is not transferable or assignable.** A license issued to a partnership or a limited partnership is not transferred or assigned within the meaning of this section by the death, withdrawal, or admission of a partner, general partner, or limited partner, unless the death, withdrawal, or admission dissolves the partnership to which the license was issued.

22153 (a) If a finance lender or broker licensee seeks to **change its place of business** to a street address other than that designated in its license, the licensee shall provide **notice to the commissioner at least 10 days prior to the change.** The commissioner shall notify the licensee **within 10 days** if the commissioner **disapproves** the change, and if the commissioner **does not notify the licensee of disapproval within 10 days,** the change in address shall be **deemed approved.** The commissioner may require an applicant to submit its application to change its place of business through the Nationwide Mortgage Licensing System and Registry.

(b) If notice **is not given at least 10 days prior to** the change of a street address of a place of business, as required by subdivision (a), or notice is not given at least 10 days prior to engaging in business at a new location, as required by Section 22102, the commissioner may assess a **civil or administrative penalty** on the licensee **not to exceed** five hundred dollars (**\$500**).

22154 (a) **No licensee shall conduct the business** of making loans under this division **within any office, room, or place of business in which any other business is solicited or engaged** in, or in association or conjunction therewith, except as is **authorized in writing** by the commissioner upon the commissioner's finding that the character of the other business is such that the granting of the authority would **not facilitate evasions of this division or of the rules** and regulations made pursuant to this division. An authorization once granted remains in effect until revoked by the commissioner. The commissioner may authorize the other business through the Nationwide Mortgage Licensing System and Registry.

(b) The **products or services of an affiliated corporation** of the licensee that is a supervised financial institution, or a parent or subsidiary of a supervised financial institution that is an affiliate of the licensee, **may be provided, offered, or sold at the licensed location** of the licensee **without authorization** by the commissioner pursuant to subdivision (a) if (1) the activity is not prohibited by, or in violation of, the laws applicable to the affiliate or supervised financial institution, and (2) the products and services are not offered and sold in a manner that restricts the ability of the borrower or customer to individually select or reject a product or service that is offered.

(c) **The following definitions govern the construction of this section:**

(1) **Affiliated** or **affiliate** means the following: *A corporation is an affiliate of, or a corporation is affiliated with, another specified corporation if it directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the other specified corporation.*

(2) **Supervised financial institution** means any *commercial bank, industrial bank, credit card bank, trust company, savings and loan association, savings bank, credit union, California finance lender, residential mortgage lender or servicer, or insurer, provided that the institution is subject to supervision by an official or agency of this state or of the United States.*

22155 No finance lender, broker, or mortgage loan originator licensee shall transact the business licensed or make any loan provided for by this division **under any other name or at any other place of business than that named in the license except pursuant to a currently effective written order of the commissioner authorizing the other name or other place of business.** The commissioner's order, while effective, shall be deemed to amend the original license issued pursuant to Section 22105 or 22109.1. Notwithstanding any provision of this section, a licensee may make any loan and engage in any other business provided for by this division, other than the business described in subdivision (b) of Section 22154, **at a place other than the licensed location under either of the following conditions:**

California Mortgage Lending Law

- (a) The borrower requests, either orally or in writing, that a loan be initiated or made at a location other than the licensee's licensed location. The use by the licensee of a preprinted solicitation form returned to the licensee by the borrower shall not constitute a request by the borrower that a loan be initiated or made at a location other than the licensee's licensed location.
- (b) The licensee makes a solicitation or advertises for, or makes an offer of, a loan displayed on "home pages" or similar methods by the licensee on the Internet, the World Wide Web, or similar proprietary or common carrier electronic systems, and the prospective borrower may transmit information over these electronic systems to the licensee in connection with the licensee's offer to make a loan.

22156 Finance lender, broker, and mortgage loan originator licensees shall keep and use in their business, books, accounts, and records which will enable the commissioner to determine if the licensee is complying with the provisions of this division and with the rules and regulations made by the commissioner. On any loan secured by real property in which loan proceeds were disbursed to an independent escrow holder, the licensee shall retain records and documents as set forth by rules of the commissioner adopted pursuant to Section 22150. Upon request of the commissioner, licensees shall file an authorization for disclosure to the commissioner of financial records of the licensed business pursuant to Section 7473 of the Government Code.

22157 Finance lender, broker, and mortgage loan originator licensees shall **preserve** their books, accounts, and records, including cards used in the card system, if any, **for at least three years after making the final entry on any loan recorded therein.**

22158 Nothing contained in Sections 22156 and 22157 shall require the maintenance or preservation of original records, provided that any information requested by the commissioner can be **furnished within 48 hours**, excluding Saturdays, Sundays, and holidays as defined in Sections 6700 and 6701 of the Government Code.

22159 (a) Each finance lender and broker licensee shall **file an annual report with the commissioner, on or before the 15th day of March**, giving the relevant information that the commissioner reasonably requires concerning the business and operations conducted by the licensee within the state during the preceding calendar year for each licensed place of business. The individual annual reports filed pursuant to this section shall be made available to the public for inspection except, upon request in the annual report to the commissioner, the balance sheet contained in the annual report of a sole proprietor or any other nonpublicly traded persons.

Nonpublicly traded person for purposes of this section means *persons with securities owned by 35 or fewer individuals*. The report shall be made under oath and in the form prescribed by the commissioner.

- (b) A licensee shall make other special reports that may be required by the commissioner.
- (c) The commissioner may require a licensee that employs one or more mortgage loan originators to submit to the Nationwide Mortgage Licensing System and Registry reports of condition, which shall be in the form and shall contain the information as the Nationwide Mortgage Licensing System and Registry may require.
- (d) The commissioner may by rule or order require a mortgage loan originator to submit reports of condition to the Nationwide Mortgage Licensing System and Registry, in lieu of the reports of condition required of his or her employer pursuant to subdivision (c).

22159.5 (a) The commissioner may, as he or she deems necessary, **require licensees to provide reports concerning their residential mortgage loan servicing activities**, including, but not limited to, information similar to that collected in connection with the Mortgage Servicers Survey, first published by the Department of Corporations in December 2007. The commissioner is additionally authorized to seek and accept information provided on a voluntary basis by residential mortgage loan servicers not subject to the commissioner's jurisdiction. The commissioner shall post only aggregated survey results on the department's Internet Web site, and shall note the number of loan servicers submitting data included in the aggregated totals and the estimated percentage of outstanding mortgage loans to Californians that are serviced by these loan servicers, to the extent information on the number of outstanding loans is available from a reliable source. Nothing in this section is intended to reduce or change the commissioner's authority to request and demand reports under Sections 22150 and 22159.

- (b) For purposes of this section, **mortgage loan servicing activity** means *receiving more than three installment payments of principal, interest, or other amounts placed in escrow, pursuant to the terms of a mortgage loan, and performing services relating to that receipt or the enforcement of its receipt, on behalf of the holder of the note evidencing that loan.*

22160 The commissioner shall make and file annually with the Department of Corporations as a public record a composite of the annual reports and any comments on the reports that he or she deems to be in the public interest.

22161 No person subject to this division shall do any of the following:

- (a) **Make** a materially false or misleading statement or representation to a borrower about the terms or conditions of that borrower's loan, when making or brokering the loan.
- (b) Advertise, print, display, publish, distribute, or broadcast, or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast in any manner, **any statement or representation with regard to the business** subject to the provisions of this division, including the rates, terms, or conditions for making or negotiating loans, that is false, misleading, or deceptive, or that omits material information that is necessary to make the statements not false, misleading, or deceptive, or in the case of a licensee, that refers to the supervision of the business by the state or any department or official of the state.
- (c) Commit an act in violation of Section 1695.13 of the Civil Code.
- (d) Engage in any act in violation of Section 17200 of the Business and Professions Code.
- (e) **Knowingly misrepresent, circumvent, or conceal**, through subterfuge or device, any material aspect or information regarding a transaction to which the person is a party.
- (f) **Commit an act that constitutes fraud or dishonest dealings.**

22162 No licensee shall place an advertisement disseminated primarily in this state for a loan unless the licensee discloses in the printed text of the advertisement, or in the oral text in the case of a radio or television advertisement, **the license under which the loan would be made or arranged.**

22163 The commissioner **may require that rates of charge**, if stated by a licensee, be stated fully and clearly in the manner that the commissioner deems necessary to prevent misunderstanding by prospective borrowers.

22164 If any person engaged in the business regulated by this **division refers in any advertising to rates of interest, charges, or cost of loans**, the commissioner shall require that the **rates, charges, or costs are stated fully and clearly** in the manner that he or she deems necessary to give adequate information to prospective borrowers. If the rates or costs advertised do not apply to loans of all classes made or negotiated by the person, this fact shall be clearly indicated in the advertisement.

22165 No advertising copy shall be used after its use has been disapproved by the commissioner and the licensee is **notified in writing** of the disapproval. The commissioner may by order direct any licensee to submit advertising copy to the commissioner for review prior to use.

22166 The commissioner may require licensees to **maintain a file of all advertising copy** for a period of **two years** from the date of its use. The file shall be available to the commissioner upon request.

22168 (a) The commissioner may, after appropriate notice and opportunity for hearing, suspend for a period **not to exceed 12 months or bar a person from any position of employment** with a licensee if the commissioner finds that the person has willfully used or claimed without authority a designation or certification of special education, practice, or skill that the person has not attained, or willfully held out to the public a confusingly similar designation or certification for the purpose of **misleading the public regarding his or her qualifications or experience.**

- (b) **Within 15 days from the date of a notice of intention** to issue an order pursuant to subdivision (a), the person may request a hearing under the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code). Upon receiving a request, the matter shall be **set for hearing to commence within 30 days** after receipt unless the person subject to this division consents to a later date. **If no hearing is requested within 15 days after the mailing or service of the notice** and none is ordered by the commissioner, the failure to request a hearing shall constitute a **waiver of the right to a hearing.**

- (c) Upon receipt of a notice of intention to issue an order pursuant to subdivision (a), the person who is the subject of the proposed order is immediately prohibited from engaging in any activities subject to licensure under this division.
- (d) Persons suspended or barred under this section are prohibited from participating in any business activity of a licensed finance lender, broker, or mortgage loan originator, and from engaging in any business activity on the premises where a licensed finance lender, broker, or mortgage loan originator is conducting its business. This subdivision shall not be construed to prohibit suspended or barred persons from having their personal transactions processed by a licensed finance lender, broker, or mortgage loan originator.

22169 (a) The commissioner may, after appropriate notice and opportunity for hearing, by order, **censure or suspend for a period not exceeding 12 months, or bar from any position** of employment, management, or control any finance lender, broker, mortgage loan originator, or any other person, **if the commissioner finds either of the following:**

- (1) That the censure, suspension, or bar is in the public interest and that the person has committed or caused a violation of this division or rule or order of the commissioner, which violation was either known or should have been **known by the person committing or causing it or has caused material damage** to the finance lender, broker, or mortgage loan originator, or to the public.
 - (2) That the person has been **convicted of or pleaded nolo contendere to any crime, or has been held liable in any civil action by final judgment**, or any administrative judgment by any public agency, if that crime or civil or administrative judgment involved any offense involving dishonesty, fraud, or deceit, or any other offense reasonably related to the qualifications, functions, or duties of a person engaged in the business in accordance with the provisions of this division.
- (b) **Within 15 days** from the date of a notice of intention to issue an order pursuant to subdivision (a), the person may request a hearing under the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) of Division 3 of Title 2 of the Government Code). Upon receipt of a request, the matter shall be **set for hearing to commence within 30 days after such receipt** unless the person subject to this division consents to a later date. **If no hearing is requested within 15 days** after the mailing or service of such notice and none is ordered by the commissioner, the failure to request a hearing shall **constitute a waiver of the right to a hearing.**
 - (c) Upon receipt of a notice of intention to issue an order pursuant to this section, the person who is the subject of the proposed order is immediately prohibited from engaging in any activities subject to licensure under the law.
 - (d) Persons suspended or barred under this section are prohibited from participating in any business activity of a finance lender, broker, or mortgage loan originator, and from engaging in any business activity on the premises where a finance lender, broker, or mortgage loan originator is conducting business.

22170 (a) **It is unlawful** for any person to knowingly **alter, destroy, mutilate, conceal, cover up, falsify, or make a false entry** in any record, document, or tangible object with the intent to impede, obstruct, or influence the administration or enforcement of any provision of this division.

- (b) It is unlawful for any person to **knowingly make an untrue statement** to the commissioner or the Nationwide Mortgage Licensing System and Registry during the course of licensing, investigation, or examination, **with the intent** to impede, obstruct, or influence the administration or enforcement of any provision of this division.

22171 (a) The commissioner shall apply the guidance on nontraditional mortgage product risks published on November 14, 2006, by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators, and the Statement on Subprime Mortgage Lending published on July 17, 2007, by the aforementioned entities and the National Association of Consumer Credit Administrators, to licensees.

- (b) The commissioner **may adopt emergency and final regulations** to clarify the application of this section as soon as possible.
- (c) A finance lender or broker licensee shall adopt and adhere to policies and procedures that are reasonably intended to achieve the objectives set forth in the documents described in subdivision (a). A mortgage loan originator licensee shall adhere to policies and procedures developed by its employer in accordance with this division and applicable federal law and regulation.

22172 (a) The commissioner may do one or more of the following:

- (1) Deny, suspend, revoke, condition, or decline to renew a mortgage loan originator license for a **violation** of this division, or any rules or regulations adopted thereunder.
- (2) Deny, suspend, revoke, condition, or decline to renew a mortgage loan originator license if an applicant or licensee **fails at any time to meet the requirements** of Section 22109.1 or 22109.4, or **withholds information or makes a material misstatement** in an application for a license or license renewal.
- (3) **Order restitution** against a mortgage loan originator or any finance lender or broker licensee employing a mortgage loan originator for a violation of this division.
- (4) **Impose fines** on a mortgage loan originator or any finance lender or broker licensee employing a mortgage loan originator pursuant to subdivisions (b), (c), and (d).
- (5) Issue orders or directives to mortgage loan originators under this division as follows:
 - (A) Order or direct a mortgage loan originator or any finance lender or broker licensee employing a mortgage loan originator to **desist and refrain from conducting business**, including immediate temporary orders to desist and refrain.
 - (B) Order or direct a mortgage loan originator or any finance lender or broker licensee employing a mortgage loan originator to **cease any harmful activities or violations** of this division, including immediate temporary orders to desist and refrain.
 - (C) **Enter immediate temporary orders to cease business** under a license issued pursuant to the authority granted under Section 22100 if the commissioner determines that the license was erroneously granted or the mortgage loan originator is currently in violation of this division.
 - (D) **Order or direct any other affirmative action** as the commissioner deems necessary.
- (b) The commissioner may **impose a civil penalty** on a mortgage loan originator or any finance lender or broker licensee employing a mortgage loan originator, if the commissioner finds, on the record after notice and opportunity for hearing, that the mortgage loan originator or any finance lender or broker licensee employing a mortgage loan originator has violated or failed to comply with any requirement of this division or any regulation prescribed by the commissioner under this division or order issued under authority of this division.
- (c) The **maximum** amount of **penalty for each** act or omission described in subdivision (b) shall be twenty-five thousand dollars (**\$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.

California Code of Regulations

The **regulations under the California Finance Lenders Law** are contained in Chapter 3, Title 10 of the **California Code of Regulations**, commencing with Section 1404 (10 C.C.R. §1404, et seq.).

10 C.C.R. §1404 Definitions

- (a) “Call report” or “NMLS Mortgage Call Report” means a report of condition on the company and its operations including financial statements and production activity volumes.
- (b) “Company” includes all domestic and foreign private corporations, limited liability companies, joint ventures, associations, syndicates, joint stock companies, partnerships of every kind, unincorporated organizations, government or political subdivisions of a government, trustees and individuals.
- (c) “Department” means the Department of Corporations of the State of California.
- (d) “Finance company” means a company subject to the California Finance Lenders Law and also has the same meaning as “licensee” as defined in Financial Code Section 22007.
- (e) “Law” or “Code” means the California Finance Lenders Law.

- (f) “Mortgage lender” or “mortgage broker” or “mortgage lender and broker” means a finance company, finance lender, or broker who makes, brokers, or services residential mortgage loans and who is required to be licensed pursuant to Section 22100 of the Code.
- (g) “Form MU1” means the uniform licensing form developed by the Nationwide Mortgage Licensing System and Registry for a mortgage lender, mortgage servicer, or mortgage broker business, entitled “Uniform Mortgage Lender/Mortgage Broker Form.”
- (h) “Form MU2” means the uniform licensing form developed by the Nationwide Mortgage Licensing System and Registry for a person that directly or indirectly exercises control over a mortgage lender, mortgage servicer, or mortgage broker business, or a branch thereof, including qualifying individuals and branch managers specified in Form MU1, entitled “Uniform Mortgage Biographical Statement & Consent Form.”
- (i) “Form MU3” means the uniform licensing form developed by the Nationwide Mortgage Licensing System and Registry for the branch office of a mortgage lender, mortgage servicer, or mortgage broker, entitled “Uniform Mortgage Branch Office Form.”
- (j) “Form MU4” means the uniform licensing form developed by the Nationwide Mortgage Licensing System and Registry for an individual mortgage loan originator license or registration, entitled “Uniform Individual Mortgage License/Registration & Consent Form.”
- (k) “NMLS” means the Nationwide Mortgage Licensing System and Registry.
- (l) “Sponsoring” or “to sponsor” means to maintain an employment relationship between a mortgage loan originator and a mortgage lender, mortgage broker, or mortgage lender and broker where the mortgage loan origination activities of the mortgage loan originator are subject to the supervision and oversight of the mortgage lender, mortgage broker, or mortgage lender and broker. A licensed mortgage lender, mortgage broker, or mortgage lender and broker is the “sponsor” of a mortgage loan originator employed by, and subject to the supervision and oversight of, the mortgage lender, mortgage broker, or mortgage lender and broker. For purposes of Subchapter 6 of these rules, an employment relationship may be established through factors such as supervision and control of the sponsored mortgage loan originator, legal and regulatory responsibility for the acts of the mortgage loan originator, and performance under the name, authority and policies of the sponsor, and is not necessarily contingent on whether a mortgage loan originator is issued a Form W-2 by the sponsor.

10 C.C.R. Article 1. General Provisions

§1408 Waivers Prohibited

A finance company shall **not require or permit a borrower to waive any statutory provision of the Law for his/her benefit**, including any notice which the law requires to be given to the borrower (however, any notice may be given by registered mail, directed to his/her last known address), nor shall a finance company require or permit a borrower to waive any mandatory provision of these rules and regulations.

§1409 Officers, Directors, Partners, and other Persons: Maintenance of Current List with Commissioner: Information Required.

- (a) A **finance company shall at all times maintain on file with the Commissioner a current list** of officers, directors, and partners in the case of a partnership, and other persons named in the application. Changes in partnerships are limited to the conditions set forth in Section 22151(b) of the Law. In the event of any change, other than transfers between branch offices, in the officers, directors, or partners, or other persons named in the application, a finance company shall file with the Commissioner an amendment to the application containing the same information in relation to such new person(s) as is required in the application, **within thirty days** from the date of the change.
- (b) A mortgage lender, mortgage broker, or mortgage lender and broker shall comply with subsection (a) by **submitting changes** to the Commissioner **through NMLS on Forms** MU1, MU2, MU3, and MU4, as applicable.

§1409.1 Notice of Changes by Mortgage Lender, Mortgage Broker, Mortgage Lender and Broker, and Mortgage Loan Originator

- a) Each licensed mortgage lender, mortgage broker, mortgage lender and broker, and mortgage loan originator shall, upon any change in the information contained in its license application (other than financial information contained therein) **promptly file an amendment** to such application setting forth the changed information.
- (b) A mortgage lender, mortgage broker, and mortgage lender and broker **shall file changed information contained in its Forms MU1, MU2, and MU3**, and any exhibits thereto, through NMLS in accordance with its procedures for transmission to the Commissioner. Any change that cannot be submitted through NMLS shall be filed directly with the Commissioner.
- (c) A mortgage loan originator **shall file changed information contained in its Form MU4**, and any exhibits thereto, through NMLS in accordance with its procedures for transmission to the Commissioner within twenty **(20) days of changes** to the information as provided in Section 1422.6 of Subchapter 6 of these rules. Any change that cannot be submitted through NMLS shall be filed directly with the Commissioner. A mortgage loan originator may not renew his or her license under Section 1422.6.3 of Subchapter 6 of these rules until all changes to the information contained in his or her Form MU4 are filed with the Commissioner as provided in this section.
- (d) A licensed mortgage lender, mortgage broker, and mortgage lender and broker **shall notify** the Commissioner of the **employment of any new mortgage loan originator** in California and of the **termination of employment** of any mortgage loan originator in California in accordance with Section 1422.6 of Subchapter 6 of these rules.
- (e) If a mortgage lender, mortgage broker, or mortgage lender and broker **discovers that a sponsored mortgage loan originator has not filed an amendment** to his or her Form MU4, the mortgage lender, mortgage broker, or mortgage lender and broker shall require the mortgage loan originator to **file the amendment immediately**. If, within five **(5) days** from the demand, the mortgage loan originator has not made the changes, the mortgage lender, mortgage broker, or mortgage lender and broker **shall inform the Commissioner in writing**.

§14011 Criminal Action: Report to Commissioner

- (a) A finance lender shall immediately **report in writing** to the commissioner **any criminal action filed against such company** or its directors, officers or management personnel.
- (b) A mortgage lender, mortgage broker, mortgage lender and broker, and mortgage loan originator shall file the information in subsection (a) with the NMLS on Form MU1 and MU2, as applicable, in accordance with its procedures for transmission to the Commissioner.

§14014 Supervision of MLOs

- (a) Every mortgage lender, mortgage broker, and mortgage lender and broker shall exercise **diligent supervision** over the mortgage loan origination and lending activities of every mortgage loan originator that it sponsors.
- (b) Every mortgage loan originator employed by a mortgage lender, mortgage broker, or mortgage lender and broker shall be **subject to the supervision** of a branch manager designated by such mortgage lender, mortgage broker, or mortgage lender and broker. Every branch manager shall be identified on Form MU3 and shall submit a Form MU2 to NMLS.
- (c) Every mortgage lender, mortgage broker, and mortgage lender and broker **shall establish, maintain and enforce written procedures**, a copy of which shall be kept in each business office, that set forth the procedures adopted by the mortgage lender, mortgage broker, and mortgage lender and broker to comply with the duties imposed by this section.
- (d) Every mortgage lender, mortgage broker, and mortgage lender and broker **shall designate a Supervisor, an individual who shall:**
 - (1) Supervise and periodically review the activities of the branch managers designated pursuant to subsection (b) of this section;

California Mortgage Lending Law

- (2) Periodically inspect each business office of the mortgage lender, mortgage broker, or mortgage lender and broker to ensure that the written procedures are enforced; and
- (3) In the event a mortgage lender, mortgage broker, or mortgage lender and broker does not have any branch offices, the supervisor shall directly supervise and review the activities of the mortgage loan originators.
- (e) The supervisor shall be identified in Form MU1 as a qualifying individual and shall submit a Form MU2. For purposes of this section, a **qualifying individual** is *a person in charge and responsible for the actions of the mortgage lender, mortgage broker, and mortgage lender and broker.*

Quiz

1. ***In the state of California, which of the following provides protection to consumers and services to businesses that are engaged in financial transactions?***
 - a. California Bureau of Real Estate
 - b. California Department of Business Oversight
 - c. California Department of Finance and Lending
 - d. California Mortgage Lending Institute
2. ***The Financial Services Division (FSD) is responsible for the regulation all of the following laws EXCEPT the***
 - a. Administrative Procedures Act.
 - b. California Finance Lenders Law.
 - c. California Residential Mortgage Lending Act.
 - d. Check Sellers, Bill Payers and Prorates Law.
3. ***Under California law, a broker is defined as***
 - a. an attorney at law acting within the normal course of business.
 - b. an employer who provides residential mortgage loans to his employees as a benefit.
 - c. a person who negotiates or offers to place loans made by a finance lender.
 - d. a person who offers or negotiates the terms of a residential mortgage loan on the behalf of an immediate family member.
4. ***Under the California Finance Lenders Law, which of the following is considered a loan transaction and therefore subject to the rules and regulations of the law?***
 - a. automobile sales finance contract
 - b. bona fide lease
 - c. home equity line of credit
 - d. retail installment sales loan
5. ***A licensed finance lender or broker shall continuously maintain a minimum net worth of at least***
 - a. \$20,000.
 - b. \$25,000.
 - c. \$50,000.
 - d. 100,000.
6. ***All of the following personal information must be included as part of an MLO license application EXCEPT***
 - a. authorization to obtain a credit report.
 - b. authorization to obtain criminal findings from any governmental jurisdiction.
 - c. a copy of licenses issued by other states.
 - d. fingerprints for submission to a criminal background check.
7. ***For a mortgage loan originator applicant, how many hours of pre-licensing education must be taken?***
 - a. 8
 - b. 10
 - c. 20
 - d. 24
8. ***Which statement about the MLO written test is FALSE?***
 - a. After failing the test the first time, an applicant must wait 30 days before retaking it.
 - b. After failing three consecutive tests, the applicant must wait 3 months before retaking it.
 - c. A formerly licensed MLO who has been inactive for two years is not required to retake the test when applying for a license.
 - d. The required pass rate is 75%.
9. ***The license of a mortgage loan originator failing to satisfy the minimum standards for license renewal will expire at midnight on***
 - a. January 1.
 - b. the date the license was initially issued.
 - c. the date the application was submitted.
 - d. December 31.
10. ***Under California law, what is the minimum assessment a finance lender/broker licensee will pay to the commissioner?***
 - a. \$1,000
 - b. \$750
 - c. \$500
 - d. \$250

CA State Elective:

California Residential Mortgage Lending Act

This is the second of two sections that covers California state-specific pre-licensure education (PE) information. The focus of this section is on the **California Residential Mortgage Lending Act (CRMLA)**. Specifically, this section will cover the CRMLA regulations that set forth the requirements for obtaining and renewing a license as a lender, a servicer, or both. Also covered are the administrative powers of the commission to issue a license, deny a license and assess fees, as well as disciplinary actions the commissioner can take for non-compliance with the law.

Learning Objectives

After completing this section, you will be able to:

- Identify the licensing application requirements for a residential mortgage lender, residential mortgage loan servicer and a mortgage loan originator as set forth by the CRMLA.
- Adhere to CRMLA financial condition, transaction and bond requirements.
- Define the administrative powers and processes of the commission to issue a license, deny a license and assess fees.
- Describe disciplinary actions that can be taken by the commissioner for non-compliance with the law.
- Comply with the CRMLA regulations when offering or providing brokerage services to borrowers.

Individual A natural person.

Mortgage Servicer The entity that collects monthly mortgage payment; pays taxes, insurance, and other items as they come due; and notifies the borrower of late payments.

Registered Loan Originator A natural person who is employed by a depository institution that is regulated by a federal banking agency and is exempt from state licensing regulation who works with a prospective borrower to gather information, assist with completing applications, and otherwise making or initiating a new loan.

State-licensed Mortgage Loan Originator Any individual who is an MLO; is not an employee of a depository institution or a subsidiary that is (a) owned and controlled by a depository institution; and (b) regulated by a federal banking agency.

About the California Residential Mortgage Lending Act

The **California Residential Mortgage Lending Act (CRMLA)** is contained in **Division 20 of the California Financial Code, commencing with Section 50000**. The regulations are contained in Subchapter 11.5 of Chapter 3 of Title 10 of the California Code of Regulations, commencing with Section 1950.003 (10 C.C.R. §1950.003, et seq.).

The CRMLA was enacted in 1994 and became operative in 1996. The CRMLA was enacted as an alternative to the existing laws licensing lenders under the Real Estate Law and the California Finance Lenders Law, in order to provide mortgage bankers with a licensing law **specifically intended to regulate their primary functions of originating and servicing residential mortgage loans**. Unlike the Real Estate Law and the California Finance Lenders Law, the CRMLA is **specifically designed to authorize and regulate mortgage banking activities**. An applicant under the CRMLA may obtain a license as a lender, a servicer, or both.

CRMLA Authorization **(FC DIV 20 CRMLA §50002)**

The CRMLA authorizes licensees to **make** federally related mortgage loans, to make loans to finance the construction of a home, to sell the loans to institutional investors, and to service such loans. Licensees are authorized to purchase and **sell** federally related mortgage loans and to provide contract underwriting services for institutional lenders. Licensees are authorized to **service** any federally related mortgage loan regardless of whether they make the loan or purchase a servicing portfolio.

A licensed CRMLA lender is also authorized to **provide brokerage services** to a borrower, by attempting to obtain a mortgage loan on behalf of the borrower from an institutional lender. Employees who engage in brokering activities on behalf of the CRMLA licensee must be licensed mortgage loan originators employed by the licensee.

CRMLA Required Licensees **(FC DIV 20 CRMLA §50002)**

In general, any form of organization may get a license. This includes natural persons, sole proprietorships, corporations, partnerships, limited liability companies, associations, trusts, joint ventures, unincorporated organizations, joint stock companies, governments or political subdivisions of governments and any other entity.

The CRMLA requires that any person **engaged in the business of making or servicing residential mortgage loans** within California do so only under the authority of a license under the CRMLA. The following entities are **exempt** from the licensing requirements:

- Banks, trust companies, insurance companies, and industrial loan companies
- Federally chartered savings and loan associations, federal savings banks, and federal credit unions
- Savings and loan associations, savings banks, and credit unions authorized to conduct business in California
- Persons engaged solely in business, commercial, or agricultural mortgage lending
- Wholly owned service corporations of savings and loan associations or savings banks
- Federal, state and municipal governments
- Pension plans making residential mortgage loans to their participants
- Persons acting in a fiduciary capacity conferred by the authority of a court
- Licensed California real estate brokers
- California finance lenders
- Trustees in a foreclosure proceeding

CRMLA Required Licenses: Branches **(FC DIV 20 CRMLA §50002)**

Each **branch location** desiring to conduct business under a CRMLA license **must be separately authorized** and will require the filing of Form MU3 through the NMLS. All locations in California must be authorized.

California Residential Mortgage Lending Act

A **branch office** is any physical location of the entity, other than the “home/main” office location, which is either located in California or, if located outside of California, conducts activities subject to the California Residential Mortgage Lending Act. Every location in California must be an approved location. In addition, every location outside of California that conducts California business subject to the California Residential Mortgage Lending Act must be an approved location.

Business locations outside of California that do not conduct California business under the California Residential Mortgage Lending Act do **not** need to be approved.

CRMLA License Issuance Requirements (FC DIV 20 CRMLA §50120-§50121)

Prior to obtaining a license, each California residential mortgage lender applicant must:

1. Be an **approved** lender and/or servicer **with one or more of** the following entities:
 - The Federal Housing Administration (FHA)
 - Veterans Administration (VA)
 - Farmers Home Administration (FmHA)
 - Government National Mortgage Association (Ginnie Mae)
 - Federal National Mortgage Association (Fannie Mae)
 - Federal Home Loan Mortgage Corporation (Freddie Mac)
2. Provide audited financial statements demonstrating tangible **net worth of at least \$250,000**.
3. Maintain a **surety bond** in the amount of **\$50,000**.
4. Pay the application fee of \$900, an investigation fee of \$100 and fingerprint processing costs of \$62 per person investigated.

All license applications are filed electronically through the Nationwide Mortgage Licensing System.

All stockholders, principal officers and directors must have a background check performed by the Department. This includes obtaining criminal history information through the Department of Justice and conducting civil court checks for activities that indicate previous involvement in fraud, embezzlement, fraudulent conversion, or misappropriation of property.

California Residential Mortgage Lending Act (CRMLA)

Applicable chapters/sections of the **California Residential Mortgage Lending Act (CRMLA)** contained in **Division 20 of the California Financial Code, commencing with Section 50000**, are as follows:

Chapter 1 General Provisions

FC DIV 20 CRMLA §50002

- (a) **No person** shall engage in the business of making residential mortgage loans or servicing residential mortgage loans, in this state, without **first obtaining a license from the commissioner** in accordance with the requirements of Chapter 2 (commencing with Section 50120) or Chapter 3 (commencing with Section 50130), and any rules promulgated by the commissioner under this law, unless a person or transaction is excepted from a definition or exempt from licensure by a provision of this law or a rule of the commissioner.
- (b) (1) An **employee of a licensee** or of a **person exempt from licensure** is **not required to be licensed** when acting within the scope of his or her employment and shall be exempt from any other law from which his or her employer is exempt, except that an individual who meets the definition of a mortgage loan originator in Section 50003.5 shall be subject to this division.
 - (2) A person exempt from this division may apply to the commissioner for an exempt company registration for the purpose of sponsoring one or more individuals required to be licensed as mortgage loan originators as defined in Section 50003.5 and pursuant to the SAFE Act.

California SAFE Comprehensive Mortgage Loan Originator

- (3) An exempt person applying under the exempt company registration procedure shall comply with all rules and orders that the commissioner deems necessary to ensure compliance with the SAFE Act and shall pay an annual registration fee established by the commissioner.
- (c) The following **persons are exempt** from subdivision (a):
- (1) Any bank, trust company, insurance company, or industrial loan company doing business under the authority of, or in accordance with, a license, certificate, or charter issued by the United States or any state, district, territory, or commonwealth of the United States that is authorized to transact business in this state.
 - (2) A federally chartered savings and loan association, federal savings bank, or federal credit union that is authorized to transact business in this state.
 - (3) A savings and loan association, savings bank, or credit union organized under the laws of this or any other state that is authorized to transact business in this state.
 - (4) A person engaged solely in business, commercial, or agricultural mortgage lending.
 - (5) A wholly owned service corporation of a savings and loan association or savings bank organized under the laws of this state or the wholly owned service corporation of a federally chartered savings and loan association or savings bank that is authorized to transact business in this state.
 - (6) An agency or other instrumentality of the federal government, or state or municipal government.
 - (7) An employee or employer pension plan making residential mortgage loans only to its participants, or a person making those loans only to its employees or the employees of a holding company, or an owner who controls that person, affiliate, or subsidiary of that person.
 - (8) A person acting in a fiduciary capacity conferred by the authority of a court.
 - (9) A real estate broker licensed under California law, when making, arranging, selling, or servicing a residential loan.
 - (10) A California finance lender or broker licensed under Division 9 (commencing with Section 22000), when acting under the authority of that license.
 - (11) A trustee under a deed of trust pursuant to the Civil Code, when collecting delinquent loan payments, interest, or other loan amounts, or performing other acts in a judicial or nonjudicial foreclosure proceeding.
 - (12) A mortgage loan originator who has obtained a license under Chapter 3.5 (commencing with Section 50140), provided that the mortgage loan originator is employed by a residential mortgage lender or servicer.
 - (13) A registered mortgage loan originator described in subdivision (e).
- (d) **An individual, unless specifically exempted** under subdivision (e), shall not engage in the business of a mortgage loan originator with respect to any dwelling located in this state without **first obtaining and maintaining annually a license** in accordance with the requirements of Chapter 3.5 (commencing with Section 50140) and any rules promulgated by the commissioner under that chapter. Each licensed mortgage loan originator shall register with and maintain a valid unique identifier issued by the Nationwide Mortgage Licensing System and Registry.
- (e) A **registered mortgage loan originator is exempt from licensure** under subdivisions (a) and (d), when he or she is employed by a depository institution, a subsidiary of a depository institution that is owned and controlled by a depository institution and regulated by a federal banking agency, or an institution regulated by the Farm Credit Administration.
- (f) A **loan processor or underwriter** who is an independent contractor employed by a residential mortgage lender or servicer may not perform the activities of a loan processor or underwriter under this division unless the independent contractor loan processor or underwriter **obtains and maintains a license** under Section 50120.

Chapter 2 Licensing: Residential Mortgage Lender

FC DIV 20 CRMLA §50120

- (a) A residential mortgage lender shall **file an application** for licensure under this chapter with the commissioner to make or service residential mortgage loans in this state.
- (b) A licensee may not engage in the business as a residential mortgage lender under a name other than the **name that appears on the license**, or a legally assumed name disclosed either in the application or in an amendment to the application, which shall be reflected on the license.
- (c) A licensee may **not make or service** residential mortgage loans **secured by real property** pursuant to the authority of a license, or an exemption from licensure, under the Real Estate Law.
- (d) The commissioner may, pursuant to Section 50321, **order a licensee to cease** any other business conducted at any location where the licensee operates under the authority of a residential mortgage lender license, if the commissioner finds that the conduct of that business has **facilitated evasions of this division or the rules** adopted pursuant to this division, or that the conduct of that business is in violation of any law to which that business is subject.
- (e) A license issued for a **business location outside this state** shall constitute an agreement by the licensee to, at the sole discretion of the commissioner, either (1) make the licensee's books, accounts, papers, records, and **files available** to the commissioner or the commissioner's representatives in this state within **10 calendar days** of a request from the commissioner or, (2) **pay the reasonable expenses** for travel, meals, and lodging **of the commissioner or the commissioner's representatives** incurred during an investigation or examination made at the licensee's location outside this state.
- (f) The commissioner may, by rule, require an applicant for a residential mortgage lender or servicer license or a residential mortgage lender or servicer licensee to make some or all filings with the commissioner through the Nationwide Mortgage Licensing System and Registry.
- (g) The commissioner may, by rule, require licensees to pay assessments through the Nationwide Mortgage Licensing System and Registry.

FC DIV 20 CRMLA §50121

The commissioner shall **issue** a residential mortgage lender **license upon the satisfaction of all of the following**:

- (a) The filing with the commissioner of a **complete and executed application** for licensure, which may, at the discretion of the commissioner, include background and experience disclosures required by any of the **uniform application forms** of the Nationwide Mortgage Licensing System and Registry.
- (b) The payment of a **nonrefundable investigation fee** of one hundred dollars (\$100), plus the **cost of fingerprint processing and clearance**, and an **application filing fee** of nine hundred dollars (\$900).
- (c) An investigation of the statements required by Section 50124 based upon which the commissioner is able to issue findings that the **financial responsibility, criminal records** (verified by fingerprint, at the discretion of the commissioner), **experience, character, and general fitness** of the applicant and of the partners or members thereof, if the applicant is a partnership or association, and of the principal officers and directors thereof, if the license applicant is a corporation, support a finding that the business will be operated honestly, fairly, and in accordance with the requirements of this division.

FC DIV 20 CRMLA §50123

- (a) A residential mortgage lender license shall remain in effect until suspended, surrendered, or revoked.
- (b) A residential mortgage lender licensee that **ceases to engage** in the business regulated by this division and desires to no longer be licensed **shall inform the commissioner in writing** and, at that time, surrender the license and all other indicia of licensure to the commissioner. The licensee shall file a plan for the withdrawal from regulated business, and the plan shall include a timetable for the disposition of the business. The plan shall also include a closing audit, review, or other agreed upon procedures performed by an independent certified public accountant prescribed by rule or order of the commissioner. Upon receipt of the written notice and plan, the commissioner shall review the plan and, if satisfactory to the commissioner, shall accept the surrender of the license. A license is not surrendered until its tender is

accepted in writing by the commissioner after a review, and a finding has been made on the licensee's plan required to be filed by this section, and a determination has been made that there is no violation of this law.

- (c) A residential mortgage lender or servicer licensee **may not surrender its license** under this division and, under the authority of a real estate license, subsequently engage in residential mortgage lending or servicing activities that are subject to this division, unless the licensee has **been licensed under this division for a period of five years or more**

FC DIV 20 CRMLA §50124

- (a) A **residential** mortgage lender or servicer shall **do all of the following**:

- (1) **Maintain staff adequate** to meet the requirements of this division, as prescribed by rule or order of the commissioner.
 - (2) Keep and maintain for **36 months** from the date of final entry the **business records** and other information required by law or rules of the commissioner regarding any mortgage loan made or serviced in the course of the conduct of its business.
 - (3) **File** with the commissioner any **report required under law** or by rule or order of the commissioner.
 - (4) **Disburse funds** in accordance with its agreements and to make a good faith and reasonable effort to effect **closing in a timely manner**.
 - (5) **Account or deliver to a person any personal property** such as money, funds, deposit, check, draft, mortgage, other document, or thing of value, that has come into its possession and is not its property, or that it is not in law or equity entitled to retain under the circumstances, at the time that has been agreed upon or is required by law, or, in the absence of a fixed time, upon demand of the person entitled to the accounting or delivery.
 - (6) **File** with the commissioner an **amendment to its application prior to any material change** in the information contained in the application for licensure, including, without limitation, the plan of operation. The commissioner shall, within **20 business days** of receiving a completed amendment to the application, or within a longer time if agreed to by the licensee, approve or disapprove the effectiveness of the proposed amendment.
 - (7) Comply with the provisions of this division, and with any order or rule of the commissioner.
 - (8) Submit to periodic examination by the commissioner as required by this division.
 - (9) **Advise** the commissioner by amendment to its application of any **material judgment** filed against, or bankruptcy petition filed by, the licensee within **five days** of the filing.
 - (10) **Notify** the commissioner, **in writing**, prior to **opening a branch office in this state or changing its business location** or locations or its branch offices from which activities subject to this division are conducted.
 - (11) Comply with all applicable **state and federal tax return** filing requirements.
 - (12) **Refrain from employing, or paying** a commission or other fee to, a mortgage loan originator who is **not licensed** in this state, unless the individual is exempt from licensure.
 - (13) **Refrain from committing a crime** against the laws of any state or the United States, involving moral turpitude, misrepresentation, fraudulent or dishonest dealing, or fraud, and disclose to the commissioner any final judgment entered against it in a civil action upon grounds or allegations of fraud, misrepresentation, or deceit.
 - (14) Refrain from engaging in conduct that would be cause for denial of a license.
 - (15) Remain solvent.
 - (16) Proceed with due care and competence in performing any act for which it is required to hold a license under this division.
 - (17) Comply with any other requirement established by rule of the commissioner.
- (b) The commissioner may require an applicant to submit a statement agreeing to comply with the requirements of this section.

FC DIV 20 CRMLA §50126

- (a) Upon reasonable notice and opportunity to be heard, the **commissioner may deny an application for any of the following reasons:**
 - (1) A **false statement of a material fact** has been made in the application.
 - (2) Any officer, director, general partner, or person owning or controlling, directly or indirectly, 10 percent or more of the outstanding interests or equity securities of the applicant has, within the last 10 years, (A) **been convicted of, or pleaded nolo contendere to, a crime** or (B) **committed any act involving dishonesty, fraud, or deceit**, if the crime or act is substantially related to the qualifications, functions, or duties of a person engaged in business in accordance with this division.
 - (3) The applicant or any officer, director, general partner, or person owning or controlling, directly or indirectly, 10 percent or more of the outstanding interests or equity securities of the applicant, has violated any provision of this division or the rules thereunder or any similar regulatory scheme of the State of California or a foreign jurisdiction.
 - (4) The applicant **employs a mortgage loan originator who is not licensed in this state**, unless the mortgage loan originator is exempt from licensure.
- (b) The application shall be considered **withdrawn** within the meaning of this section **if the applicant fails to respond to a written notification** of a deficiency in the application within **90 days** of the date of the notification.

Chapter 3 Licensing: Residential Mortgage Loan Servicer

FC DIV 20 CRMLA §50130

- (a) A **mortgage servicer** shall **file an application for licensure** under this chapter with the commissioner to service mortgage loans in this state by satisfying the requirements of this chapter and the applicable provisions, as determined by the commissioner, of Chapter 2 (commencing with Section 50120).
- (b) **A mortgage servicer may apply for licensure by doing all of the following:**
 - (1) Filing with the commissioner an application containing the information required by Section 50122, and any additional information the commissioner may require by rule.
 - (2) Paying the investigation and application fees required by Section 50121.
 - (3) Submitting any information required by Section 50124.
 - (4) Complying with the applicable provisions of Chapter 2 (commencing with Section 50120).
- (c) A licensee may not make or service loans secured by real property pursuant to the authority of a license, or exemption from licensure, under the Real Estate Law.
- (d) The commissioner may, pursuant to Section 50321, order a licensee to cease any other business conducted at any location where the licensee operates under the authority of a residential mortgage servicer license, if the commissioner finds that the conduct of that business has facilitated evasions of this division or the rules adopted pursuant to this division, or that the conduct of that business is in violation of any law to which that business is subject.
- (e) **A license for a business location outside this state** shall constitute an agreement by the mortgage servicer to, at the discretion of the commissioner, either (1) make the licensee's books, accounts, papers, records, and files available to the commissioner or the commissioner's representatives in this state within 10 calendar days of a request from the commissioner or, (2) pay the reasonable expenses for travel, meals, and lodging of the commissioner or the commissioner's representatives incurred during an investigation or examination made at the licensee's location outside this state.
- (f) The commissioner shall license a mortgage servicer upon **completion of the investigation and issuance of the findings** required by Section 50121, subject to Sections 50123, 50125, 50126, and 50127.
- (g) A mortgage servicer licensed to service mortgage loans shall comply with all applicable requirements of California and federal law, including the Civil Code and Section 2609 of the federal Real Estate Settlement Procedures Act of 1974, as amended (12 U.S.C. Sec. 2601 et seq.).

- (h) A license shall remain in effect until suspended, surrendered, or revoked.
- (i) The commissioner may require an applicant or licensee to make some or all filings with the commissioner through the Nationwide Mortgage Licensing System and Registry

Chapter 3.5 Mortgage Loan Originators

FC DIV 20 CRMLA §50140

- a) An **applicant for a license as a mortgage loan originator** shall apply by submitting the **uniform form** prescribed for that purpose by the Nationwide Mortgage Licensing System and Registry. The commissioner may require the submission of additional information or supporting documentation to the department.
- (b) Section 461 of the Business and Professions Code shall not be applicable to the Department of Corporations when using a national uniform application adopted or approved for use by the Nationwide Mortgage Licensing System and Registry in connection with the SAFE Act.
- (c) The commissioner shall, by rule, **establish the timelines, fees, and assessments** applicable to applicants for original mortgage loan originator licenses, license renewals, and license changes under this division.
- (d) The commissioner may, by rule, require mortgage loan originator licensees to **pay assessments** through the Nationwide Mortgage Licensing System and Registry.
- (e) In connection with an application for a license as a mortgage loan originator, the applicant shall, at a minimum, **furnish** to the Nationwide Mortgage Licensing System and Registry information concerning the **applicant's identity, including the following:**
 - (1) **Fingerprint images and related information**, for purposes of performing a federal, or both a state and federal, criminal history background check.
 - (2) **Personal history and experience** in a form prescribed by the Nationwide Mortgage Licensing System and Registry, including the submission of authorization for the Nationwide Mortgage Licensing System and Registry and the commissioner to obtain both of the following:
 - (A) An independent credit report obtained from a consumer reporting agency.
 - (B) Information related to any administrative, civil, or criminal findings by any governmental jurisdiction.
- (f) The commissioner may ask the Nationwide Mortgage Licensing System and Registry to obtain state **criminal history background check** information on applicants described in subdivision (a) using the procedures set forth in subdivisions (g) and (h).
- (g) If the Nationwide Mortgage Licensing System and Registry electronically submits fingerprint images and related information, as required by the Department of Justice, for an applicant for a mortgage loan originator license, for the purposes of obtaining information as to the existence and content of a record of state convictions and state arrests and to the existence and content of a record of state arrests for which the Department of Justice establishes that the person is free on bail or on his or her recognizance pending trial or appeal, the Department of Justice shall provide an electronic response to the Nationwide Mortgage Licensing System and Registry pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code, and shall provide the same electronic response to the commissioner.
- (h) The Nationwide Mortgage Licensing System and Registry may request from the Department of Justice subsequent arrest notification service, as provided pursuant to Section 11105.2 of the Penal Code, for persons described in subdivision (a). The Department of Justice shall provide the same electronic response to the commissioner.

FC DIV 20 CRMLA §50141

- (a) The commissioner shall **deny an application** for a mortgage loan originator license unless the commissioner makes at a **minimum the following findings:**
 - (1) The applicant has **never had** a mortgage loan originator **license revoked in any governmental jurisdiction**, except that a subsequent formal vacation or set aside of such revocation shall not be deemed a revocation.

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- (2) (A) The applicant has **not been convicted** of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court during the seven-year period preceding the date of the application for licensing and registration, or at any time preceding the date of application, if such felony involved an act of fraud, dishonesty, a breach of trust, or money laundering. Whether a particular crime is classified as a felony shall be determined by the law of the jurisdiction in which an individual is convicted.
- (B) For purposes of this paragraph, **an expunged or pardoned felony conviction shall not require denial of an application**. However, the commissioner may consider the underlying crime, facts, or circumstances of an expunged or pardoned felony conviction when determining the eligibility of an applicant for licensure under this paragraph or paragraph (3).
- (3) The applicant has **demonstrated such financial responsibility, character, and general fitness** 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 division.
- (4) The applicant has completed the **prelicensing education requirement** described in Section 50142.
- (5) The applicant has **passed a written test** that meets the test requirements described in Section 50143.
- (6) The applicant is **employed** by, and subject to the supervision of, a residential mortgage lender or servicer that has obtained a license from the commissioner pursuant to this division.
- (7) The **surety bond** of the residential mortgage lender or servicer employing the applicant covers the activities of the applicant and meets the requirements of Section 50205.

FC DIV 20 CRMLA §50142

- (a) An applicant for a mortgage loan originator license shall complete at least **20 hours of education** approved in accordance with subdivision (b). The education shall include at least the following:
 - (1) Three hours of instruction on federal law and regulations.
 - (2) Three hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues.
 - (3) Two hours of training related to lending standards for the nontraditional mortgage product marketplace
- (b) For purposes of subdivision (a), prelicensing education courses shall be reviewed and approved by the Nationwide Mortgage Licensing System and Registry. 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 approved by the Nationwide Mortgage 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.
- (d) Prelicensing education may be offered either in a classroom, online, or by any other means approved by the Nationwide Mortgage Licensing System and Registry.
- (e) The prelicensing education requirements approved by the Nationwide Mortgage Licensing System and Registry for any state other than California shall be accepted as credit toward completion of prelicensing education requirements in California
- (f) An individual previously licensed under this chapter applying to be licensed again must prove that he or she has completed all of the continuing education requirements for the year in which that individual last held the license

FC DIV 20 CRMLA §50143

- (a) An applicant for a mortgage loan originator license shall pass a qualified written test developed by the Nationwide Mortgage Licensing System and Registry and administered by a test provider approved by the Nationwide Mortgage Licensing System and Registry.
- (b) A written test shall not be treated as a qualified written test for purposes of subdivision (a) unless the test adequately measures the applicant's knowledge and comprehension in appropriate **subject areas**, including the following:
 - (1) Ethics.

California SAFE Comprehensive Mortgage Loan Originator

- (2) Federal law and regulation relating to mortgage origination.
 - (3) State law and regulation relating to mortgage origination.
 - (4) Federal and state 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 approved by the Nationwide Mortgage Licensing System and Registry from providing a test at the location of the employer of the applicant or 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) (1) An individual shall not be considered to have passed a qualified **written test** unless the individual achieves a test score of not less than **75 percent of** correct answers to questions.
- (2) An individual who fails the qualified written test may **retake the test up to three consecutive times**, although at least 30 days shall pass between each retesting.
 - (3) An applicant who **fails three consecutive retests** shall wait at least **six months** before retesting.
 - (4) 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.

FC DIV 20 CRMLA §50144

- (a) A mortgage loan originator shall comply with the requirements of this section on or before **December 31 of every year**.
- (b) The minimum standards for **license renewal** for mortgage loan originators shall include the following:
- (1) The mortgage loan originator continues to meet the **minimum standards for license issuance** under Section 50141.
 - (2) The mortgage loan originator has satisfied the **annual continuing education requirements** described in Section 50145.
 - (3) The mortgage loan originator, or the residential mortgage lender or servicer employing the mortgage loan originator, has **paid all required fees for renewal** of the license.
 - (4) The license of a mortgage loan originator **failing to satisfy the minimum standards** for license renewal **shall expire at midnight on December 31**, except as provided in Section 50145.

The commissioner may adopt procedures for the reinstatement of expired licenses consistent with the standards established by the Nationwide Mortgage Licensing System and Registry.

FC DIV 20 CRMLA §50145

- (a) A licensed mortgage loan originator shall complete at least **eight hours of continuing education** approved in accordance with subdivision (b). The continuing education shall include at least the following:
- (1) Three hours of instruction on federal law and regulations.
 - (2) Two hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues.
 - (3) Two hours of training related to lending standards for the nontraditional mortgage product marketplace.
- (b) For purposes of subdivision (a), continuing education courses shall be reviewed and approved by the Nationwide Mortgage Licensing System and Registry. 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 approved by the Nationwide Mortgage 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 any subsidiary or affiliate of the employer or entity.
- (d) Continuing education may be offered either in a classroom, online, or by any other means approved by the Nationwide Mortgage Licensing System and Registry.

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- (e) Except as provided in subdivision (i), a licensed mortgage loan originator:
 - (1) May only receive credit for a continuing education course in the year in which the course is taken.
 - (2) May 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 **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.
- (g) A person who has successfully completed continuing education requirements approved by the Nationwide Mortgage Licensing System and Registry for any state other than California shall be granted credit toward completion of continuing education requirements in California.
- (h) A licensed mortgage loan originator who subsequently becomes unlicensed 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.
- (i) A person meeting the requirements of paragraphs (1) and (3) of subdivision (b) of Section 50144 may correct any deficiency in continuing education as established by rule or regulation of the commissioner.

FC DIV 20 CRMLA §50146

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 Mortgage Licensing System and Registry. **In order to carry out this requirement the commissioner is authorized to participate in the Nationwide Mortgage Licensing System and Registry.** For this purpose, the **commissioner may establish by rule, regulation, or order, requirements as necessary**, including, but not limited to, the following:

- (a) **Background checks** for:
 - (1) Criminal history through fingerprint or other databases.
 - (2) Civil or administrative records.
 - (3) Credit history.
 - (4) Any other information as deemed necessary by the Nationwide Mortgage Licensing System and Registry or the commissioner.
- (b) The **payment of fees** to apply for or renew licenses through the Nationwide Mortgage Licensing System and Registry.
- (c) The **setting or resetting** as necessary of **renewal or reporting dates**.
- (d) **Requirements for amending or surrendering a license** or any other activities as the commissioner deems necessary for participation in the Nationwide Mortgage Licensing System and Registry.

2.1 Knowledge Check

1. *Will is employed with a federally chartered bank. To take residential mortgage loan applications for his employer, Will must be a*
 - a. certified loan processor.
 - b. licensed mortgage lender.
 - c. registered licensed mortgage broker.
 - d. registered mortgage loan originator.

2. *A California residential mortgage lender applicant must pay an application fee of*
 - a. \$200.
 - b. \$350.
 - c. \$500.
 - d. \$900.

3. *Which one of the following is required to take a written exam developed by NMLS?*
 - a. attorneys at law who provide legal advice to buyers purchasing a home
 - b. mortgage lending business applicants
 - c. mortgage loan originator applicants
 - d. mortgage underwriters

4. *The commissioner can deny an application for a MLO license if the applicant has been convicted of a felony during the _____-year period preceding the date of the application for licensing.*
 - a. 4
 - b. 5
 - c. 7
 - d. 10

5. *Which of the following statements is FALSE?*
 - a. If the licensee is a partnership, the license shall state the names of its general partners.
 - b. If the licensee is a residential mortgage lender or servicer, the license shall state the address of the licensee's principal business location.
 - c. The license shall state whether the licensee is licensed as a residential mortgage loan lender or servicer or as a mortgage loan originator.
 - d. A license is transferable and assignable.

Chapter 4 Financial Condition, Transaction and Bond Requirements

FC DIV 20 CRMLA §50200

At the end of the licensee's fiscal year, **but in no case more than 12 months after the last audit** conducted pursuant to this section, each licensed residential mortgage lender or servicer shall cause its books and accounts to be audited by an independent certified public accountant. Beginning with all audits of business conducted after December 31, 1995, the audit shall be sufficiently comprehensive in scope to permit the expression of an opinion on the financial statements prepared in accordance with generally accepted accounting principles and shall be performed in accordance with generally accepted auditing standards. The audit shall include a reconciliation of the licensee's trust accounts as of the audit date.

FC DIV 20 CRMLA §50201

A licensee issued a license for purposes of making or servicing residential mortgage loans, including a licensee employing one or more mortgage loan originators, **shall continuously maintain a minimum tangible net worth at all times of two hundred fifty thousand dollars (\$250,000).**

FC DIV 20 CRMLA §50202

- (a) **Escrow funds** for a purpose authorized by the residential mortgage loan contract (1) shall be subject to and satisfy all applicable state and federal requirements, including Section 2609 of the federal Real Estate Settlement Procedures Act of 1974, as amended (12 U.S.C. Sec. 2601 et seq.) and all applicable provisions of the Civil Code, (2) shall be maintained in a depository institution as described in subdivision (b), and (3) may not be commingled with a licensee's funds.
- b) Except as provided in subdivision (f), a **trust account** shall be placed in a non-interest-bearing account in a federally insured depository institution, a federal home loan bank, a federal reserve bank, or other similar government-sponsored enterprise, **to be removed and used only for the following:**
 - (1) Payments authorized by the borrower, allowed by the mortgage loan contract, or required by federal or state law.
 - (2) Refunds to the borrower.
 - (3) Transfer to another institution that is described in this subdivision.
 - (4) Forwarding to the appropriate servicer in case of a transfer of servicing.
 - (5) Any other purpose authorized by the residential mortgage loan contract.
 - (6) Compliance with a regulatory or court order.
- (c) As used in this section, **trust funds** means *funds collected by a licensee in connection with the making or servicing of a residential mortgage loan that the licensee holds on behalf of another.*
- (d) Notwithstanding any other provision of law, but subject to the limitations of Section 854, benefits accruing from the placement in a non-interest-bearing account of a commercial bank (including a national banking association) of funds received by a licensee who services mortgage loans under this law, shall inure to the licensee, unless otherwise agreed in writing by the licensee and the investor on whose behalf the licensee services the loan. A borrower shall receive at least 2 percent simple interest per annum on impound account payments covered by Section 2954.8 of the Civil Code.
- (e) **Trust funds** are **not subject to the enforcement of a money judgment** arising out of a claim against the licensee or person acting as the servicing agent, and in no instance shall the trust funds be considered or treated as an asset of the licensee or person performing the functions of a residential mortgage lender or loan servicer.
- (f) A licensee may, **at the request of the owner** of the trust funds, transfer the funds initially deposited in a non-interest-bearing trust account **into an interest-bearing account** in a federally insured depository institution if **all of the following requirements are met:**
 - (1) The account is in the name of the residential mortgage lender licensee in trust for the specified beneficiary.

California SAFE Comprehensive Mortgage Loan Originator

- (2) All of the funds in the account are federally insured.
- (3) The funds in the account are kept separate and distinct from the funds of the licensee or funds of any other person for whom the licensee holds funds in trust.
- (4) The licensee discloses to the person from whom the funds are received and the beneficiary of the account how interest will be calculated and paid, whether service charges will be paid to the depository and by whom, and possible notice requirements or penalties for withdrawal of funds from the account.
- (5) All interest earned on the account will be paid to the owner of the trust funds or the beneficiary.

FC DIV 20 CRMLA §50203

- (a) A licensee **may not require a borrower to pay fees or charges prior to the residential mortgage loan closing, except for:**
 - (1) Actual charges to be incurred by the licensee on behalf of the borrower for **services from third parties necessary to process the application**, such as credit reports, appraisals, flood certification, and tax service, and in transactions where these services are provided by the licensee, a charge not to exceed the prevailing market rate for the service.
 - (2) Refunds to the borrower.
 - (3) A rate-lock fee, provided:
 - (A) There is a written agreement signed by the borrower and licensee.
 - (B) The terms of the agreement include, but are not limited to:
 - (i) The expiration date of the rate-lock fee agreement.
 - (ii) The principal amount of the mortgage loan, the term of the mortgage loan, and identification of the property.
 - (iii) The initial interest rate and the discount (points) to be paid.
 - (iv) The amount and payment term of the rate-lock fee along with a statement disclosing whether the fee is refundable and the terms and conditions necessary to obtain a refund.
 - (C) The licensee demonstrates to the commissioner that it is able to perform under the terms of the agreement.
 - (4) A commitment fee, upon approval of the residential mortgage loan application, provided:
 - (A) The commitment is in writing and signed by the licensee and the borrower.
 - (B) The commitment contains all of the following information:
 - (i) The terms and conditions of the residential mortgage loan.
 - (ii) The terms and conditions of the commitment, including, but not limited to, all of the following:
 - (I) The time period during which the commitment is irrevocable and may be accepted by the borrower, which may not be less than three calendar days from the date of commitment or the date of mailing, whichever is later.
 - (II) The amount and payment terms of the commitment fee, along with a statement disclosing whether the fee is refundable and the terms and conditions necessary to obtain a refund.
 - (III) The expiration date of the commitment.
 - (IV) Conditions precedent to closing.
- (b) **If the licensee has performed its obligations** under the law related to the transaction, fees or charges collected pursuant to this section, other than those collected pursuant to paragraphs (1) and (2) of subdivision (a), **shall be refunded if a valid commitment or closing**, respectively, does not occur, except that the licensee may retain appropriate fees upon the licensee's demonstration to the commissioner that any of the following occurred:
 - (1) The borrower withdrew the loan application.

California Residential Mortgage Lending Act

- (2) The borrower made a material misrepresentation or omission on the loan application.
- (3) The borrower failed, after written request, to provide documentation necessary to the processing or closing of the loan application.
- (4) The closing failed to occur due solely to the fault of the borrower.

FC DIV 20 CRMLA §50204

A licensee may not do any of the following:

- (a) **Disburse the mortgage loan proceeds in a form other than direct deposit** to the borrower's or borrower's designee's account, wire, bank or certified check, ACH funds transfer, or attorney's check drawn on a trust account. An entity may apply to the commissioner for a waiver of the requirements of this subdivision by demonstrating, in a letter application, that it has adopted or will adopt another method of disbursement of loan proceeds that will satisfy the purposes of this subdivision.
- (b) **Fail to disburse funds** in accordance with a commitment to make a mortgage loan that is accepted by the applicant
- (c) **Accept fees** at closing that are **not disclosed to the borrower** on the federal HUD-1 Settlement Statement.
- (d) **Commit an act in violation** of Section 2941 of the Civil Code.
- (e) Obtain or induce an agreement or other instrument in which **blanks are left to be filled** in after execution.
- (f) **Intentionally delay closing** of a mortgage loan for the sole purpose of increasing interest, costs, fees, or charges payable by the borrower.
- (g) Engage in **fraudulent home mortgage underwriting practices**.
- (h) **Make payment** of any kind, whether directly or indirectly, to an in-house or fee appraiser of a government or private money lending agency, with which an application for a home mortgage has been filed, for **the purpose of influencing the independent judgment** of the appraiser with respect to the value of real estate that is to be covered by the home mortgage.
- (i) Engage in any **acts in violation** of Section 17200 or 17500 of the Business and Professions Code.
- (j) **Knowingly** misrepresent, circumvent, or conceal, through subterfuge or device, any material aspect or information regarding a transaction to which it is a party.
- (k) Do an act, whether of the same or a different character than specified in this section that **constitutes fraud or dishonest dealings**.
- (l) **Sell more than eight loans in a calendar year** made under the authority of this license to a **person who is not an institutional investor**.
- (m) Commit an **act in violation** of Section 1695.13 of the Civil Code.
- (n) **Make or service a loan that is not a residential mortgage loan** under the authority of the license.
- (o) Commit an **act in violation** of Section 2948.5 of the Civil Code. Evidence of compliance with Section 2948.5 of the Civil Code may be evidenced by (1) a certification executed by the licensee, at no cost to the borrower, pursuant to Section 2015.5 of the Code of Civil Procedure, or (2) other evidence in the loan file acceptable to the commissioner.
- (p) **Make or broker a loan** that is offered by, negotiated by, or applied for **through a mortgage loan originator who is not licensed** in this state through the Nationwide Mortgage Licensing System and Registry, unless the mortgage loan originator is exempt from licensure.

FC DIV 20 CRMLA §50205

- (a) A **residential mortgage lender or servicer** licensee shall maintain a **surety bond** in accordance with this subdivision. The bond shall be used for the recovery of expenses, fines, and fees levied by the commissioner in accordance with this division or for losses or damages incurred by borrowers or consumers as the result of a licensee's noncompliance with the requirements of this division. **The bond shall be payable when the licensee fails to comply with a provision of this division and shall be in the amount of fifty thousand dollars (\$50,000), and may be increased by order of the commissioner to one hundred**

thousand dollars (\$100,000) upon a determination by the commissioner that the licensee is not in compliance with any provision of this chapter or any rule or order adopted or issued by the commissioner to implement or enforce provisions of this chapter. The bond shall be payable to the commissioner and issued by an insurance company authorized to do business in this state. An original surety bond, including any and all riders and endorsements executed subsequent to the effective date of the bond, shall be filed with the commissioner **within 10 days of its execution.**

- (b) When an action is commenced on a licensee's bond, the commissioner may require the filing of a new bond. Immediately upon the recovery of an action on the bond, the licensee shall file a new bond. Failure to file a new bond within 10 days of the recovery on a bond, or **within 10 days after notification** by the commissioner that a new bond is required, constitutes sufficient grounds for the suspension or revocation of the license.
- (c) The commissioner may by rule require a **higher bond amount** for a licensee employing one or more mortgage loan originators, **based on the dollar amount of residential mortgage loans originated by that licensee** and any mortgage loan originators employed by that licensee. Every mortgage loan originator employed by the licensee shall be covered by the surety bond.

FC DIV 20 CRMLA §50206

- (a) Prior to a **change of control of the business** of a licensee, the **person wishing to acquire control** shall submit an application to the commissioner and pay an investigation fee of one hundred dollars (**\$100**). The application shall contain the information that the commissioner, by rule, may prescribe as necessary to determine that the person meets the requirements of Section 50121.
- (b) The commissioner shall approve or disapprove the proposed change of control of a licensee in accordance with the provisions of Section 50126.
- (c) Upon notification by the commissioner that the change of control has been disapproved, the acquiring party shall immediately cease any activity subject to regulation under this division.

FC DIV 20 CRMLA §50207

- (a) **A license**, along with any currently effective order of the commissioner approving use of a different name pursuant to Sections 50120 and 50130, shall be **conspicuously posted in the place of business authorized by the license.**
- (b) **A license is not transferable or assignable.** A license issued to a partnership or a limited partnership is not transferred or assigned within the meaning of this section by the death, withdrawal, or admission of a partner, general partner, or limited partner, unless the death, withdrawal, or admission dissolves the partnership to which the license was issued.

FC DIV 20 CRMLA §50208

The license shall state the name of the licensee. If the licensee is a partnership, the license shall **state the names of its general partners.** If the licensee is a corporation or an association, the license shall **state the date and place** of the corporation's incorporation or organization. If the licensee is a residential mortgage lender or servicer, the license shall state the address of the licensee's principal business location. The license shall state whether the licensee is licensed as a residential mortgage loan lender or servicer or as a mortgage loan originator.

FC DIV 20 CRMLA §50209

The **unique identifier** of any licensed mortgage loan originator **shall be clearly shown on all residential mortgage loan application forms, solicitations, or advertisements,** including business cards or Internet Web sites, and any other documents as established by rule, regulation, or order of the commissioner.

Chapter 5 Administration and Powers of the Commissioner

FC DIV 20 CRMLA §50301

Without limitation, the functions, powers, and duties of the commissioner include the following:

- (a) To **issue or refuse to issue** a license as provided by this division.
- (b) To **revoke or suspend** for cause any license as provided by this division.
- (c) To **keep records of licenses** issued under this division.
- (d) To **receive, consider, investigate, and act upon complaints** made in connection with a licensee.
- (e) To **prescribe the forms of and receive** (1) applications for licenses and (2) reports and books and records required to be made by a licensee under this division, including annual audited financial statements.
- (f) To **subpoena documents and witnesses** and compel their attendance and production, to administer oaths, and to require the production of books, papers, or other materials relevant to any inquiry authorized by this division.
- (g) To **require information** with regard to a license applicant that the commissioner may deem necessary, **with regard for the paramount public interest** in ascertaining the experience, background, honesty, truthfulness, integrity, and competency of the license applicant for financial transactions involving primary or subordinate mortgage financing, and if the license applicant is an entity other than an individual, in ascertaining the honesty, truthfulness, integrity, and competency of an officer or director of the corporation, association, or other entity, or the members of a partnership.
- (h) To enforce by order any provision of this division.
- (i) To **levy fees, fines, and charges** in an amount sufficient to **cover the cost of the services** performed in administering this division, as set forth by rule
- (j) To **appoint examiners, supervisors, experts, and special assistants** as needed to effectively and efficiently administer this division.

FC DIV 20 CRMLA §50302

As often as the commissioner deems necessary and appropriate, but **at least once every 48 months**, the commissioner **shall examine the affairs of each residential mortgage lender and servicer licensee for compliance** with this division. The commissioner shall appoint suitable persons to perform the examination. The commissioner and his or her appointees may examine the books, records, and documents of the licensee, and may examine the licensee's officers, directors, employees, or agents under oath regarding the licensee's operations. The commissioner may cooperate with any agency of the state or federal government, other states, agencies, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation. The commissioner may accept an examination conducted by one of these entities in place of an examination by the commissioner under this law, unless the commissioner determines that the examination does not provide information necessary to enable the commissioner to fulfill his or her responsibilities under this division.

FC DIV 20 CRMLA §50303

Neither the commissioner nor any employee of the Department of Corporations shall be precluded from obtaining a residential mortgage loan from a lender licensed under this division, subject to the rules that may be adopted hereunder or pursuant to other proper authority.

FC DIV 20 CRMLA §50304

The commissioner may, from time to time, **make, amend, and rescind the rules, forms, and orders** that are necessary to carry out the provisions of this law, including rules and forms governing applications and reports, and defining any terms, whether or not used in this law, provided that the definitions are consistent with the provisions of this law. For the purposes of rules and forms, the commissioner may classify loans, persons, and matters within the jurisdiction of the commissioner, and may prescribe different requirements for different classes.

FC DIV 20 CRMLA §50305

The commissioner may, in his or her discretion, **waive a requirement of a rule or form if**, in the opinion of the commissioner, the **requirement is not in the public interest** or necessary for the protection of borrowers

or investors. Upon written request from the commissioner, a **licensee shall forward authorization to release workpapers** of the licensee's independent auditor to the commissioner within **two business days** of receiving the request.

FC DIV 20 CRMLA §50306

The commissioner **may order a licensee that opens a branch office in this state or changes its business location or its locations** from which activities subject to this law are conducted, without first notifying the commissioner in writing, as required by Section 50124, to forfeit to the people of the state up to one hundred **dollars (\$100) each day for the first 10 days and ten dollars (\$10) for each day thereafter** during which the branch office or changed location is maintained without notifying the commissioner.

FC DIV 20 CRMLA §50307

- (a) **Each residential mortgage lender or servicer licensee shall file a report with the commissioner annually, on or before the first day of March**, giving the relevant information that the commissioner reasonably requires to make the calculation required by subdivision (a) of Section 50401. The report shall be made under oath and in the form prescribed by the commissioner.
- (b) A licensee shall **make any other special reports** to the commissioner that the commissioner may, from time to time, require.
- (c) If any licensed residential mortgage lender or servicer subject to this division **fails to make a report** required by law or by the commissioner, the commissioner **may immediately cause** the books, records, papers, and affairs of that licensee to be **thoroughly examined**.

FC DIV 20 CRMLA §50207.2

The commissioner may require a licensee that employs one or more mortgage loan originators to submit to the Nationwide Mortgage Licensing System and Registry reports of condition, which shall be in such form and shall contain such information as the Nationwide Mortgage Licensing System and Registry may require.

FC DIV 20 CRMLA §50308

If any person engaged in the business regulated by this division **refers in any advertising to rates of interest, charges, or costs of loans**, the commissioner shall require that they are stated fully and clearly in the manner that he or she deems necessary to give adequate information to prospective borrowers. If the rates or costs advertised do not apply to loans of all classes made or negotiated by that person, this fact shall be clearly indicated in the advertisement. Compliance with the requirements of the federal Truth in Lending Act and Regulation Z promulgated thereunder is presumed to satisfy the requirements of this section.

FC DIV 20 CRMLA §50309

The commissioner may require licensees to **maintain a file of all advertising copy** for a period of **90 days from the date of its use**. The file shall be available to the commissioner upon request.

FC DIV 20 CRMLA §50310

Nothing in this law shall preclude a person, other than a mortgage loan originator, whose license has been suspended or revoked, summarily or otherwise, from continuing to service residential mortgage loans pursuant to servicing contracts in existence at the time of the suspension for a reasonable transition period, as determined by the commissioner, after the date of the entry of the final decision in the case suspending or revoking the license.

FC DIV 20 CRMLA §50311

Nothing in this law shall preclude a person whose license has been suspended or revoked, summarily or otherwise, from making a residential mortgage loan pursuant to a commitment issued by that person prior to the suspension or revocation. **A prospective borrower who received a commitment issued by a person whose license has been suspended or revoked may, prior to the closing of the loan, terminate the commitment and receive a refund of all money paid to that person.**

FC DIV 20 CRMLA §50314

Every person subject to this division **shall keep documents and records** that will properly enable the commissioner to determine whether the residential mortgage lending or residential mortgage loan servicing functions performed by that person comply with the provisions of this division and with all rules and orders

made by the commissioner under this division. Upon request of the commissioner, residential mortgage lenders and residential mortgage loan servicers shall file an authorization for disclosure to the commissioner of financial records of the licensed business pursuant to Section 7473 of the Government Code.

FC DIV 20 CRMLA §50316

Notwithstanding any other law, **any application for licensure, amendment to the application or registration document or notice filed under any of the laws** administered by the Department of Corporations, or record otherwise required to be filed in this state as an electronic record pursuant to a nationwide central depository for information regarding licensees, including mortgage loan originators, or any electronic record filed through the Nationwide Mortgage Licensing System and Registry, shall be deemed to be a valid original document upon reproduction to paper form by the Department of Corporations.

FC DIV 20 CRMLA §50318

- (a) The commissioner may, **after appropriate notice and opportunity for hearing, by order censure or suspend for a period not exceeding 12 months**, or bar from any position of employment, management, or control any residential mortgage lender, residential mortgage loan servicer, or mortgage loan originator, or any other person, if the commissioner **finds either of the following**:
 - (1) That the censure, suspension, or bar is in the public interest and that the **person has committed or caused a violation of this division or rule or order** of the commissioner, and (A) the violation was either known or should have been known by the person committing or causing it, or (B) the violation has caused material damage to the residential mortgage lender, residential mortgage loan servicer, mortgage loan originator, or to the public.
 - (2) That the person (A) **has been convicted of or pleaded nolo contendere to any crime, or (B) has been held liable in any civil action by final judgment, or any administrative judgment by any public agency**, if that crime or civil or administrative judgment involved any offense specified in subdivision (b) of Section 50317, or any other offense reasonably related to the qualifications, functions, or duties of a person engaged in the business in accordance with the provisions of this division.
- (b) **Within 15 days from the date of a notice of intention** to issue an order pursuant to subdivision (a), the person may request a hearing under the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code). Upon receiving a request, the matter shall be set **for hearing to commence within 30 days after receipt** unless the person subject to this division consents to a later date. **If no hearing is requested within 15 days** after the mailing or service of the notice and none is ordered by the commissioner, the failure to request a hearing **shall constitute a waiver of the right to a hearing**.
- (c) Upon receipt of a notice of intention to issue an order pursuant to this section, **the person who is the subject of the proposed order is immediately prohibited from engaging** in any activities subject to licensure under the law.
- (d) **Persons suspended or barred** under this section are **prohibited from participating in any business activity** of a licensed residential mortgage lender, residential mortgage loan servicer, or mortgage loan originator and from engaging in any business activity on the premises where a licensed residential mortgage lender, residential mortgage loan servicer, or mortgage loan originator is conducting its business. This subdivision shall not be construed to prohibit suspended or barred persons from having their personal transactions processed by a licensed residential mortgage lender, residential mortgage loan servicer, or mortgage loan originator.
- (e) This section shall apply to any violation, conviction, plea, or judgment after the enactment of this section.
- (f) If any provision of this section or the application of this section to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of this section that can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.
- (g) For purposes of this section, the term **employee** means (1) *a mortgage loan originator, including a loan officer or other individual who negotiates agreements with the public, or* (2) *an individual with access to or responsibility for trust funds held by the licensee.*

FC DIV 20 CRMLA §50327

- (a) The commissioner may, after notice and a reasonable opportunity to be heard, **deny, decline to renew, suspend, or revoke** any license if the commissioner **finds that:**
 - (1) The licensee has **violated any provision** of this division or any rule or order of the commissioner thereunder.
 - (2) **Any fact or condition exists** that, if it had existed at the time of the original application for the license, **reasonably would have warranted** the commissioner in **refusing to issue the license originally.**
- (b) The power of investigation and examination by the commissioner is **not terminated** by the denial, nonrenewal, surrender, suspension, or revocation of any license issued by him or her.
- (c) **In case of refusal to obey a subpoena issued** to a director, officer, partner, or employee of a licensee, the **superior court may issue an order** requiring that person to appear before the commissioner. When before the commissioner, the director, officer, partner, or employee shall produce documentary evidence or give evidence on the matter under investigation. Failure to obey the order of the court may be **punished by the court as contempt.**
- (d) **No person is excused from testifying or from producing any document** or record before the commissioner, on the ground that the testimony or evidence required by the commissioner may tend to incriminate the person or subject him or her to a penalty or forfeiture. However, no individual may be penalized for any matter concerning which he or she is compelled to testify or produce evidence, after validly claiming the privilege against self-incrimination. However, individual testimony is not exempt from prosecution and punishment for perjury or contempt committed in testifying.

FC DIV 20 CRMLA §50333

- (a) The commissioner **shall apply the guidance on nontraditional mortgage product risks** published on November 14, 2006, by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators, and the Statement on Subprime Mortgage Lending published on July 17, 2007, by the aforementioned entities and the National Association of Consumer Credit Administrators, to licensees.
- (b) The commissioner **may adopt emergency and final rules** to clarify the application of this section as soon as possible.
- (c) A licensee shall **adopt and adhere to policies and procedures** that are reasonably intended to achieve the objectives set forth in the documents described in subdivision.

2.2 Knowledge Check

1. *A licensee issued a license for purposes of making or servicing residential mortgage loans, including a licensee employing one or more mortgage loan originators, shall continuously maintain a minimum tangible net worth at all times of*
 - a. \$25,000.
 - b. \$100,000.
 - c. \$250,000.
 - d. \$500,000.

2. *The commissioner may require licensees to maintain a file of all advertising copy for a period of how long from the date of its use?*
 - a. 60 days
 - b. 90 days
 - c. 6 months
 - d. 1 year

3. *Which situation would LEAST LIKELY allow the California DBO commissioner to suspend the MLO's license immediately without notice or hearing?*
 - a. Bob submitted a loan application without including her NMLS unique ID
 - b. Jane's MLO license in New Jersey was revoked.
 - c. Lynn is 40 days late in filing a required report.
 - d. Paul's surety bond is no longer in effect.

4. *All of the following are considered trust funds EXCEPT for*
 - a. cash for earnest money.
 - b. a check given as partial earnest money.
 - c. commission paid up front.
 - d. a promissory note given to the seller.

Chapter 6 Assessments

FC DIV 20 CRMLA §50401

- (a) In addition to other fees and reimbursements required to be paid under this division, each residential mortgage lender or servicer **licensee shall pay to the commissioner an amount equal to the lesser of:**
- (1) **its pro rata share of all costs and expenses** (including overhead and the maintenance of a prudent reserve not to exceed 90 days' costs and expenses) that the commissioner reasonably expects to incur in the current fiscal year in the administration of this division and not otherwise recovered by the commissioner under this division or from the State Corporations Fund, plus a deficit or less a surplus actually incurred during the prior fiscal year; or
 - (2) **five thousand dollars (\$5,000). The pro rata share shall be the greater of either one thousand dollars (\$1,000) or the sum of:**
 - (A) a number derived from the ratio of the aggregate principal amount of the mortgage loans secured by residential real property originated by the licensee to all mortgage loans secured by residential real property originated by all licensees under this division, as shown by the annual financial reports to the commissioner, which number is then multiplied by one-half of the costs and expenses estimated by the commissioner for the current fiscal year; plus
 - (B) a number derived from the ratio of the average value of mortgage loans secured by residential real property serviced by a licensee to the average value of all mortgage loans secured by residential real property serviced by all licensees under this division, as shown by the annual financial reports

to the commissioner, which number is then multiplied by one-half of the costs and expenses estimated by the commissioner for the current fiscal year. For the purposes of this section, the “principal amount” of a mortgage loan means the initial total amount a borrower is obligated to repay the lender and the “average value” of loans serviced means the sum of the aggregate dollar value of all mortgage loans secured by residential real property serviced by a licensee, calculated as of the last day of each month in the calendar year just ended, divided by 12.

In order for the commissioner to calculate the assessment under this section, each licensee shall file an annual report for the calendar year just ended containing the information required by the commissioner on or before **March 1** of the year in which the assessment is to be calculated.

In determining the amount assessed, the commissioner shall consider all appropriations from the State Corporations Fund for the support of this division and all reimbursements provided for under this division.

- (b) In no case shall the reimbursement, payment, or other fee authorized by this section exceed the cost, including overhead, reasonably incurred in the administration of this division, and the maintenance of a prudent reserve **not to exceed 90 days’ costs and expenses**.
- (c) On or before the **30th day of September in each year**, the commissioner shall notify each licensee by mail of the amount assessed and levied against it and that amount shall be paid **within 20 days**. If payment is not made within 20 days, the commissioner shall assess and collect a penalty, in addition to the assessment of **1 percent of the assessment for each month or part of a month that the payment is delayed or withheld**.
- (d) **If a licensee fails to pay the assessment on or before the 30th day following the day upon which payment is due, the commissioner may by order summarily suspend or revoke the license issued to the licensee.** An order issued under this section is not stayed by the filing of a request for a hearing. If, after an order is made, the request for hearing is filed in writing within 15 days from the date of service of the order and a hearing is not held within 60 days of the filing, the order is deemed rescinded as of its effective date. **During a period when its license is revoked or suspended, a licensee shall not conduct business** pursuant to this division except as may be permitted by further order of the commissioner. However, the revocation, suspension, or surrender of a license shall not affect the powers of the commissioner as provided in this division.

Chapter 7 Prohibited Practices and Penalties

FC DIV 20 CRMLA §50500

Any person who **willfully violates any provision** of this division, or any rule or order under this division, shall, upon conviction, **be subject to a fine of not more than ten thousand dollars (\$10,000) or imprisonment** pursuant to subdivision (h) of Section 1170 of the Penal Code, or in a county jail for not more than one year, or to both that fine and imprisonment. No person may be imprisoned for the violation of any rule or order unless he or she had knowledge of the rule or order. Conviction under this section shall not preclude the commissioner from exercising the authority provided in Section 50320.

FC DIV 20 CRMLA §50501

Any person who **violates a provision** of this division, or any rule or order under this division, shall be liable for a **civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation**. This penalty shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the commissioner in any court of competent jurisdiction.

FC DIV 20 CRMLA §50505

Any person who violates any provision of any of the following federal acts or regulations violates this division:

- (a) The federal Real Estate Settlement Procedures Act, as amended (12 U.S.C. Sec. 2601 et seq.).
- (b) The federal Truth in Lending Act, as amended (15 U.S.C. Sec. 1601 et seq.).
- (c) The federal Home Ownership Equity Protection Act (15 U.S.C. Sec. 1639).
- (d) Any regulation promulgated under any of the federal acts in subdivision (a), (b), or (c).

FC DIV 20 CRMLA §50513

(a) **The commissioner may do one or more of the following:**

- (1) **Deny, suspend, revoke, condition, or decline to renew** a mortgage loan originator license for a violation of this division, or any rules or regulations adopted thereunder.
 - (2) Deny, suspend, revoke, condition, or decline to renew a mortgage loan originator license if an applicant or licensee fails at any time to meet the requirements of Section 50141 or 50144, or withholds information or makes a material misstatement in an application for a license or license renewal.
 - (3) **Order restitution** against a mortgage loan originator or any residential mortgage lender or servicer licensee employing a mortgage loan originator for a violation of this division.
 - (4) **Impose fines** on a mortgage loan originator or any residential mortgage lender or servicer licensee employing a mortgage loan originator pursuant to subdivisions (b), (c), and (d).
 - (5) **Issue orders or directives** to mortgage loan originators under this division as follows:
 - (A) Order or direct a mortgage loan originator or any residential mortgage lender or servicer licensee employing a mortgage loan originator to desist and refrain from conducting business, including immediate temporary orders to desist and refrain.
 - (B) Order or direct a mortgage loan originator or any residential mortgage lender or servicer licensee employing a mortgage loan originator to cease any harmful activities or violations of this division, including immediate temporary orders to desist and refrain.
 - (C) Enter immediate temporary orders to cease business under a license issued pursuant to the authority granted under Section 50002 if the commissioner determines that the license was erroneously granted or the mortgage loan originator is currently in violation of this division.
 - (D) Order or direct any other affirmative action as the commissioner deems necessary.
- (b) The commissioner **may impose a civil penalty** on a mortgage loan originator or any residential mortgage lender or servicer licensee employing a mortgage loan originator, if the commissioner finds, on the record after notice and opportunity for hearing, that the mortgage loan originator or any residential mortgage lender or servicer licensee employing a mortgage loan originator has violated or failed to comply with any requirement of this division or any regulation prescribed by the commissioner under this division or order issued under authority of this division.
- (c) The maximum amount of penalty for each act or omission described in subdivision (b) shall be twenty-five thousand dollars (**\$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.

Chapter 9 Brokerage Services for Borrowers

FC DIV 20 CRMLA §50700

- (a) A residential mortgage lender, or a person or employee acting under the authority of a residential mortgage lender's license, including a mortgage loan originator, **shall not provide brokerage services to a borrower, except** as provided in subdivision (c).
- (b) **Brokerage services** means either of the following:
- (1) *Obtaining or attempting to obtain, on behalf of a borrower, a residential mortgage loan, as defined in subdivision (p) of Section 50003, secured by residential real estate, as defined in subdivision (v) of Section 50003, made with the funds of another institutional lender, as defined in paragraphs (1), (2), and (4) of subdivision (k) of Section 50003, and closed in the name of that lender, for a fee paid by the borrower or the institutional lender.*
 - (2) *Obtaining or attempting to obtain, on behalf of a borrower, a residential mortgage loan, as defined in subdivision (p) of Section 50003, secured by residential real estate, as defined in subdivision (v) of Section 50003, made with the funds of another institutional lender, as defined in paragraphs (1), (2), and (4) of subdivision (k) of Section 50003, but closed in the name of the licensee, for a fee paid by the borrower or the institutional lender.*

- (c) A residential mortgage lender or a mortgage loan originator employed by a residential mortgage lender may provide brokerage services under the authority of the lender's license, **if the lender first enters into a written brokerage agreement with the borrower that satisfies the requirements of Section 50701.**
- (d) **This chapter does not authorize a residential mortgage lender licensee to do any of the following:**
 - (1) Provide **brokerage services through independent contractors.**
 - (2) Provide **brokerage services through an employee not licensed** as a mortgage loan originator.
 - (3) **Obtain or attempt to obtain for a borrower a residential mortgage loan that is a "high cost mortgage,"** referred to in Section 152(aa)(1) of the federal Home Ownership and Equity Protection Act of 1994, as amended (15 U.S.C. Sec. 1602(aa)).
 - (4) **Hold itself out to borrowers,** through advertising, **as a mortgage broker,** rather than a residential mortgage lender. However, a licensee shall disclose its status as a broker or agent when that disclosure is required by law.
 - (5) Perform activity subject to Section 10131 of the Business and Professions Code, except activities authorized by this division.
- (e) A mortgage loan originator may **only provide brokerage services as an employee of a licensed residential mortgage lender.**

FC DIV 20 CRMLA §50701

- (a) As soon as practical **after a borrower requests that the residential mortgage lender licensee arrange a loan to be made by another institutional lender,** and before the licensee performs brokerage services for the borrower, the licensee and borrower shall enter into a written loan brokerage agreement that satisfies the requirements of this section.
- (b) Both the licensee's authorized representative, who shall be a licensed mortgage loan originator, and the borrower shall **sign and date** the loan brokerage agreement, and the licensee shall **deliver a copy** of the fully executed loan brokerage agreement to the borrower either **upon execution,** if the documents are signed in the licensee's office, or **within three business days after execution.**
- (c) The loan **brokerage agreement** shall include the mortgage loan originator's **unique identifier.**
- (d) The loan brokerage agreement shall contain an **explicit statement** that (1) the licensee is **acting as the agent** of the borrower in providing brokerage services to the borrower, and (2) when acting as agent for the borrower, it owes to that borrower a fiduciary duty of utmost care, honesty, and loyalty in the transaction, including the duty of full disclosure of all material facts. If the licensee is authorized to act as an agent for any other person, the brokerage agreement shall contain a statement of that fact and identification of that person.
- (e) The loan **brokerage agreement** shall contain a **detailed description of the services** the licensee agrees to perform for the borrower, and a good faith estimate of any fees the licensee will receive for those services, whether paid by the borrower, the institutional lender, or both.
- (f) The loan **brokerage agreement** shall carry a clear and conspicuous **statement of the conditions** under which the borrower is obligated to pay the licensee for brokerage services rendered under the agreement.
- (g) The loan **brokerage agreement** shall provide that, **if the licensee makes a materially false or misleading statement** or omission in the inducement or implementation of the agreement, the borrower may, in addition to any other legal rights or remedies, upon written notice, **do any of the following:**
 - (1) Rescind the brokerage agreement.
 - (2) Recover fees paid by the borrower to the licensee for brokerage services rendered by the licensee pursuant to the agreement.
 - (3) Recover actual costs, including attorney's fees, for enforcing the borrower's rights under the loan brokerage agreement.
- (h) If the loan brokerage agreement fails to set forth the rights in subdivision (g), these rights shall be implied by operation of law.
- (i) The loan brokerage agreement shall be the only agreement between the borrower and the licensee with respect to a single loan.

- (j) A licensee whose services to a borrower are limited to providing brokerage services **may not require a borrower to pay fees or charges** before the residential mortgage loan closing, other than either of the following:
 - (1) Actual charges to be incurred by the licensee on behalf of the borrower for services from third parties necessary to process the application, such as credit reports, appraisals, inspections, flood certification, and tax service, and, in transactions where those services are provided by the licensee, a charge not to exceed the fee customarily charged for the same or comparable service in the community in which the service was rendered.
 - (2) An application fee. A licensee may not accept a fee under Section 50203(a)(1) or (2) and subsequently require a borrower to pay additional fees or charges under this paragraph for the borrower's loan transaction.
- (k) Any loan **brokerage agreement that provides for the collection of an application fee shall be approved as to form by the commissioner** before its use by a licensee, if the agreement meets the following requirements:
 - (1) The agreement specifies the services to be rendered for the application fee.
 - (2) The agreement sets forth the amount of the application fee and the date the fee becomes due and payable.
 - (3) The agreement does not contain a provision that purports to except or relieve the licensee from the responsibility to fulfill verbal commitments and representations made by employees or agents of the licensee when contracting for the application fee, or guarantee that a loan will be obtained.
 - (4) The agreement sets forth a definite date for full performance of the services promised in exchange for the application fee.

FC DIV 20 CRMLA §50702

- (a) The **annual report** required by Section 50401(a) shall include both of the following:
 - (1) The **number and the aggregate principal amount of closed** residential mortgage loans secured by residential real estate in which the licensee **provides brokerage services**, as defined in this chapter.
 - (2) The number and aggregate principal amount of residential mortgage loans made by the licensee under this division.
- (b) The **sum total of the aggregate principal loan amounts** reported in paragraphs (1) and (2) of subdivision (a) shall be deemed the aggregate principal amount of mortgage loans secured by residential real property originated by the licensee, for purposes of determining a licensee's annual assessment under subdivision (a) of Section 50401.
- (c) The commissioner shall provide copies of the annual reports required by subdivision (a) of Section 50401 to the Bureau of Real Estate upon request of the Real Estate Commissioner.

FC DIV 20 CRMLA §50706

- (a) Except as provided in subdivision (b), the **commissioner has primary regulatory jurisdiction over all transactions in which a licensed residential mortgage lender provides brokerage services**, whether the brokerage services are provided under the authority of this chapter or under the Real Estate Law.
- (b) If the commissioner **has reason to believe that a residential mortgage lender or one of its employees has violated the Real Estate Law while providing brokerage services** under a real estate broker's license, the commissioner shall refer the matter to the Real Estate Commissioner, who **may conduct an investigation** to determine if a violation of the Real Estate Law has occurred. If the Real Estate Commissioner believes a violation has occurred, the Real Estate commissioner may commence an enforcement action under the Real Estate Law.

DOB Website Resources

There is a great deal of information to learn and retain regarding state-specific California laws and regulations that govern MLO activities. The California Department of Business Oversight (DBO) website provides many **valuable resources that can be used to review and keep updated on the laws that govern your business**. Visit http://www.dbo.ca.gov/Licensees/Mortgage_Loan_Originators/Default.asp.

Case Study

San Diego Funding, LLC is a mortgage broker, licensed by the “California Finance Lenders Law”. (CFFL) San Diego Funding, LLC has operated from an office located at 1234 N. Garnett, San Diego, Ca. 92123, since they commenced operations. They make residential mortgages and have 3 licensed mortgage loan originators: Joe Brown, Bob Black, and Steve White.

Joe Brown occasionally does business in an office inside of Trende Title Company located at 3344 Grand Avenue, San Diego, Ca., where he oftentimes meets clients. He prefers to go to the Trende Title Company office to do business, as he is introduced to many real estate agents who use Trende Title.

Steve White goes into the San Diego Funding, LLC office every day, but the commute is over an hour each way, so the LLC decided to open a branch located at 5544 Chico Street, Pacific Beach, which is much closer to his home. He is a large producer and they want to accommodate his book of business. San Diego Funding, LLC submitted an application, along with the required fee, for a branch office license to the Commissioner of Business Oversight two weeks ago. They are still waiting on the approval, but Steve has a seminar planned this weekend, and has sent out invitations with the new address to all of his clients.

- 1. What is the dollar amount of the surety bond San Diego Funding LLC needs to maintain? Do they need more than one surety bond?**

- 2. What amount of net worth does San Diego Funding, LLC need to maintain?**

- 3. How long does the commissioner have to advise San Diego Funding, LLC whether or not the application for the branch office is approved? Would they be in violation of any code if San Diego Funding, LLC allowed Steve to have his seminar at the new location?**

- 4. Occasionally, Joe works out of the Trende Title Company office. Is this in violation of any California regulation?**

Quiz

1. *Which of the following is best defined as a natural person employed by a depository institution that is regulated by a federal banking agency and is exempt from state licensing regulation?*
 - a. mortgage servicer
 - b. mortgage underwriter
 - c. registered mortgage broker
 - d. registered mortgage loan originator
2. *Lucy works for ABC Resort and negotiates credit terms for people buying timeshare plans in the resort. What type of individual license must she have in order to do this job?*
 - a. loan originator
 - b. mortgage broker
 - a. no license is required
 - c. registered loan originator
3. *A residential mortgage lender is to keep and maintain business records _____ many months from the date of final entry.*
 - a. 36
 - b. 24
 - c. 18
 - d. 12
4. *Which statement regarding the education requirements for a mortgage loan originator is FALSE?*
 - a. An MLO applicant who consecutively fails three consecutive retests must wait three months before retesting.
 - b. An MLO whose license has been expired for five or more years must start over and meet all education requirements.
 - c. MLOs who are instructors may receive credit for their own continuing education at the rate of two hours of credit for every hour taught.
 - d. Most continuing education programs completed for another state and approved by the NMLSR will be accepted by the commissioner to meet requirements for California.
5. *A licensee may not disburse the mortgage loan proceeds in a form other than _____ to the borrower's designee's account.*
 - a. cash
 - b. cashier's check
 - c. credit card
 - d. direct deposit
6. *Mortgage loan originator pre-license education must be completed*
 - a. before taking the national examination component.
 - b. before taking the state examination component.
 - c. through a NMLS approved provider.
 - d. within five years after submission of application.
7. *Under the California Financial Code section 50302(a), the commissioner is authorized to examine the affairs of each residential mortgage lender and servicer licensee for compliance at least every*
 - a. 1 year.
 - b. 48 months.
 - c. 2 years.
 - d. 60 months.
8. *Which conduct would NOT be prohibited?*
 - a. accepting any fees at closing which were not disclosed as required
 - b. disbursing the mortgage loan proceeds into a customer's account via direct deposit
 - c. failing to disburse funds in accordance with a commitment to make a mortgage loan which is accepted by the applicant
 - d. imposing an undisclosed charge on a borrower for establishing an escrow account
9. *A residential mortgage lender who fails to file a new bond within _____ days after notification by the commissioner that a new bond is required constitutes sufficient grounds for the suspension or revocation of the license.*
 - a. 30
 - b. 20
 - c. 15
 - d. 10
10. *Mortgage loan originator requirements for individuals under the California Residential Mortgage Lending Act include all of the following EXCEPT*
 - a. completion of pre-licensure education.
 - b. satisfactory criminal background check, including fingerprints.
 - c. sponsorship in the NMLS by a licensed company.
 - d. a statement of all taxes previously paid to the federal government.

