

4 Hour MS SAFE Comprehensive: Financing Residential Real Estate

COURSE MANUAL

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INTRODUCTION

The contents of this lesson are provided through the "Mississippi S.A.F.E. Mortgage Lending Act of 2009" (Miss. Code Ann. 81-18-1).

DEPARTMENT/AGENCY - RESPONSIBILITIES AND LIMITATIONS (§81-18-40)

- The department may issue, refuse, suspend, or revoke any license or registration
- Commissioner is authorized to issue subpoenas for the purpose of conducting investigations, examinations, or other proceedings
 - Subpoenas may be issued to any individual, person or other entity for the production of all:
 - Books
 - Papers
 - Records
 - Files
 - Documents or other things
 - Commissioner may subpoena and compel the attendance of witnesses to give testimony
 - Commissioner may administer oaths
 - Subpoenas may be served either by personal process or by registered mail
 - Shall command attendance of such witnesses and/or production of such papers and documents at the time and place specified in the subpoena
- The Commissioner may establish, by rule, regulation or order, requirements as necessary, including but not limited to:
 - Background checks for:
 - Criminal history through fingerprint or other databases
 - Civil or administrative records
 - Credit history
 - Any other information as deemed necessary by the Nationwide Mortgage Licensing System and Registry (NMLS&R)
 - The payment of fees to apply for or renew licenses through the Nationwide Mortgage Licensing System and Registry
 - The setting or resetting of renewal or reporting dates
 - Requirements for amending or surrendering a license or any other such activities as the Commissioner deems necessary for participation in the Nationwide Mortgage Licensing System and Registry

CONFIDENTIALITY - (§81-18-63)

- The requirements or privilege arising under any federal law or applicable state law regarding the privacy or confidentiality of any information or material provided to the Nationwide Mortgage Licensing System and Registry (NMLS&R), shall continue to apply to the information or material after it has been disclosed to NMLS&R
 - 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 law or applicable state law
 - In order to promote more effective regulation and reduce regulatory burden through supervisory information sharing, the Commissioner is authorized to enter agreements or sharing 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
- Information or material that is subject to a privilege or confidentiality shall not be subject to:
 - Disclosure under any federal or state law governing the disclosure to the public of information held by an originator or an agency of the federal government or the respective state; or
 - Subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the NMLS&R
- 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 NMLS&R for access by the public



DEFINITIONS (Miss. Code Ann. § 81-18-3)

- Application
 - The submission of a borrower's financial information in anticipation of a credit decision, whether written or computer-generated
 - If the submission does not state or identify a specific property, the submission is an application for a prequalification and not an application for a federally related mortgage loan
 - The subsequent addition of an identified property to the submission converts the submission to an application for a federally related mortgage loan
- Borrower
 - A person who submits an application for a residential loan.
- Branch
 - A location of a company in or outside of the state that conducts business as a mortgage broker or mortgage lender
 - A location shall be considered a branch regarding mortgage broker or mortgage lender activities in any of the following:
 - If the location is used on any type of advertisement
 - If any type of record, loan file or application of the company is located at the location, with the exception of unstaffed storage facilities; or
 - If the activities of a mortgage loan originator occurs at the location
- Commissioner
 - The Commissioner of the Mississippi Department of Banking and Consumer Finance
- Commitment
 - A statement by a lender required to be licensed that sets forth the terms and conditions upon which the lender is willing to make a particular mortgage loan to a particular borrower
- Company
 - A licensed mortgage broker or mortgage lender
- Control
 - The direct or indirect possession of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract or otherwise, and shall include "controlling," "controlled by," and "under common control with"
- Department
 - The Department of Banking and Consumer Finance of the State of Mississippi
- Depository Institution
 - Any bank or savings association; includes any credit union
- Executive Originator
 - The chief executive originator, the president, the principal financial originator, the principal operating originator, each vice president with responsibility involving policymaking functions for a significant aspect of a person's business
 - The secretary, the treasurer, or any other person performing similar managerial or supervisory functions with respect to any organization whether incorporated or unincorporated
- Federal Banking Agencies
 - The Board of Governors of the Federal Reserve System,
 - The Office of the Comptroller of the Currency,
 - The Office of Thrift Supervision,
 - The National Credit Union Administration, and
 - The Federal Deposit Insurance Corporation
- Housing Finance Agency
 - Any authority that is chartered by a state to help meet the affordable housing needs of the residents of the state, is supervised directly, or indirectly, by the state government, is subject to audit and review by the state in which it operates, and whose activities make it eligible to be a member of the National Council of State Housing Agencies.
- Immediate Family Member
 - A spouse, child, sibling, parent, grandparent, grandchild, including:
 - Stepparent,
 - Stepchild,

- Stepsibling, and
 - Adoptive relationships
- Individual
 - A “natural person”
- License
 - A license to act as a mortgage broker or mortgage lender issued by the department
- Licensee
 - A person who is required to be licensed as a mortgage broker or mortgage lender
- Loan Processor or Underwriter
 - An individual who performs clerical or support duties as an employee at the direction, supervision, and instruction of a person licensed or exempt from licensing. The term "clerical or support duties" may include, after the receipt of an application:
 - The receipt, collection, distribution and analysis of information common for the processing or underwriting of a residential mortgage loan
 - Communicating with a consumer to obtain the information necessary for the processing or underwriting of a 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
 - 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
- Lock-In Agreement
 - A written agreement stating the terms of the lock-in fee
- Lock-In Fee
 - A fee collected by a licensee to be paid to a lender to guarantee an interest rate or a certain number of points on a mortgage loan from the lender
- “Make a Mortgage Loan”
 - To advance funds, offer to advance funds or make a commitment to advance funds to a borrower
- Misrepresent
 - To make a false statement of a substantive fact or to engage in, with intent to deceive or mislead, any conduct that leads to a false belief that is material to the transaction
- Mortgage Broker
 - Any person who:
 - Directly or indirectly (or by electronic activity) solicits, places or negotiates residential mortgage loans for others
 - Offers to solicit, place or negotiate residential mortgage loans for others that does not close residential mortgage loans in the company name
 - Does not use its own funds, or who closes residential mortgage loans in the name of the company and sells, assigns or transfers the loan to others within forty-eight (48) hours of the closing
- Mortgage Lender
 - Any person who directly or indirectly (or by electronic activity) originates, makes, funds or purchases or offers to originate, make, or fund or purchase a residential mortgage loan or who services residential mortgage loans
- Mortgage Lending Process
 - The process through which a person seeks or obtains a mortgage loan, including, but not limited to:
 - Solicitation
 - Application
 - Origination
 - Negotiation of terms
 - Third-party provider services
 - Underwriting
 - Signing and closing
 - Funding of the loan
 - Documents involved in the mortgage lending process include, but are not limited to:
 - Uniform residential loan applications or other loan applications
 - Appraisal reports
 - HUD-1 settlement statements
 - Supporting personal documentation for loan applications such as W-2 forms
 - Verifications of income and employment, bank statements, tax returns, payroll stubs and any required disclosures
- Mortgage Loan Originator
 - An individual who for compensation or gain or in the expectation of compensation or gain takes a residential mortgage loan application, and offers or negotiates terms of a residential mortgage loan
 - Does not include:
 - An individual engaged solely as a loan processor or underwriter except as otherwise provided in Mississippi S.A.F.E. Mortgage Lending Act of 2009

- A person or entity that is licensed or registered that only performs real estate brokerage activities, unless the person or entity is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such lender, mortgage broker, or other mortgage loan originator
 - A person or entity solely involved in extensions of credit relating to timeshare plans
- Nationwide Mortgage Licensing System and Registry (NMLSR)
 - 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
- Natural Person
 - A human being, as distinguished from an artificial person created by law
- Non-traditional Mortgage Product
 - Any mortgage product other than a 30 year fixed rate mortgage
- Offering or Negotiating a Residential Mortgage Loan
 - Presenting Mortgage loan terms to a borrower for acceptance;
 - Communicating directly or indirectly with a borrower for purposes of reaching an understanding about prospective loan terms; or
 - Recommending, referring or steering a borrower to a particular lender or set of loan terms, in accordance with a duty to or incentive from any person other than the borrower
- Person
 - A natural person, sole proprietorship, corporation, limited liability company, partnership, trust or any other group of individuals, however organized
- Principal
 - A person who, directly or indirectly, owns or controls an ownership interest of ten percent (10%) or more in a corporation or any other form of business organization, regardless of whether the person owns or controls the ownership interest through one or more persons or one or more proxies, powers of attorney, nominees, corporations, associations, limited liability companies, partnerships, trusts, joint-stock companies, other entities or devises, or any combination thereof
- Qualifying Individual
 - An owner or employee of a mortgage broker or mortgage lender who:
 - Submits documentation of two (2) years' experience directly related to mortgage lending
 - Is licensed as a loan originator
 - Resides within one hundred twenty-five (125) miles of the licensed principal place of business of the company
 - Will also be designated as a Qualifying Individual in the Nationwide Mortgage Licensing System and Registry
- Real Estate Brokerage Activity
 - Any activity that involves offering or providing real estate brokerage services to the public, including any of the following:
 - Acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of immovable property
 - Bringing together parties interested in the sale, purchase, lease, rental, or exchange of immovable property
 - Negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of immovable property, other than in connection with providing financing with respect to any such transaction
 - Engaging in any activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law
- Records or Documents
 - Any item in hard copy or produced in a format of storage commonly described as electronic, imaged, magnetic, microphotographic or otherwise
 - Any reproduction so made shall have the same force and effect as the original thereof and be admitted in evidence equally with the original
- Registered Mortgage Loan Originator
 - Any individual who:
 - Meets the definition of mortgage loan originator and is an employee of a depository institution, a subsidiary that is either owned and controlled by a depository institution and regulated by a federal banking agency, or an institution regulated by the Farm Credit Administration; and
 - Is registered with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry
- Residential Mortgage Loan
 - 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 or residential real estate upon which is constructed or intended to be constructed a dwelling
- Residential Real Estate
 - Any real property located in Mississippi upon which is constructed or intended to be constructed a dwelling
 - A dwelling is a residential structure or mobile home which contains one to four family housing units, or individual units of condominiums or cooperatives
- Service a Mortgage Loan”
 - The collection or remittance for another, (or the right to collect or remit for another, or the collection of the company's own loan portfolio, whether or not the company originated, funded or purchased the loan in the secondary market) of

payments of principal and interest, trust items such as insurance and taxes, and any other payments pursuant to a mortgage loan

- “Taking an Application for a Residential Mortgage Loan”
 - Receiving such application for the purpose of deciding, or influencing or soliciting the decision of another, whether to extend an offer of residential mortgage loan terms to a borrower or prospective borrower, or to accept the terms offered by a borrower or prospective borrower in response to a solicitation, whether the application is received directly or indirectly from the borrower or prospective borrower.
 - However, an individual whose only role with respect to the application is physically handling a completed application form or transmitting a completed form to a lender on behalf of a prospective borrower does not take an application.
- Unique Identifier
 - A number or other identifier assigned by protocols established by the Nationwide Mortgage Licensing System and Registry



PERSONS REQUIRED TO BE LICENSED - (Miss. Code Ann. § 81-18-7)

- No person shall transact business in Mississippi as a mortgage broker or lender unless licensed by the department
 - A violation of this section does not affect the obligation of the borrower under the terms of the mortgage loan
 - Every person who directly or indirectly controls a person who violates this section must provide evidence that they did not know and, in the exercise of reasonable care, could not have known of the existence of the facts by reason of which the original violation is alleged to exist
- An individual, unless specifically exempted from this chapter under Section 81-18-5, 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 under this chapter. Each licensed mortgage loan originator must register with and maintain a valid unique identifier issued by the Nationwide Mortgage Licensing System and Registry.
- For the purposes of implementing an orderly and efficient licensing process, the commissioner may establish licensing rules or regulations and interim procedures for licensing and acceptance of applications. For previously registered or licensed individuals, the commissioner may establish expedited review and licensing procedures.
- Loan Originators
 - Must be registered with the Department and work for a licensed company
 - Loan originators include W-2 employees as well as 1099 employees
 - If loan originator transfers to another mortgage broker or lender, the initial loan originator application must be completed in the NMLSR
 - Sponsorship removal must be completed by the company within the NMLSR within 30 days of loan originator's last day of employment
 - Movement from one mortgage broker or lender to another does not waive the loan originator's continuing education requirement
 - Examples of activities that will cause the requirement of licensure as a loan originator are:
 - Completing or assisting in completing an application for a loan
 - Advising or counseling a borrower on loan terms
 - Recommending or referring a borrower to a specific lender based upon factors specific to the borrower
 - Taking of an application for the purpose of deciding whether or not to extend the requested offer of a loan to the borrower
 - Does not include an individual performing purely administrative or clerical tasks
 - Obtaining financial information from the borrower to be used by a person in making a credit decision
 - Assisting the borrower in obtaining or applying to obtain a residential mortgage loan by advising on loan terms

PERSONS REQUIRED TO BE LICENSED - (Miss. Code Ann. § 81-18-61)

- Loan Processor or Underwriter
 - A loan processor or underwriter who is an independent contractor may not engage in the activities of a loan processor or underwriter unless the independent contractor loan processor or underwriter obtains and maintains a license under Section 81-18-7
 - Each independent contractor loan processor or underwriter licensed as a mortgage loan originator must have and maintain a valid unique identifier issued by the Nationwide Mortgage Licensing System and Registry

PERSONS REQUIRED TO BE LICENSED - (Miss. Code Ann. § 81-18-5)

- Exemptions
 - Registered mortgage loan originators, when acting for an entity described in Section 81-18-3(gg)
 - Any person who offers or negotiates terms of a residential mortgage loan with or on behalf of an immediate family member of the individual
 - Any person who offers or negotiates terms of a residential mortgage loan secured by a dwelling that served as the individual's residence
 - A licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of the lender, mortgage broker, or other mortgage loan originator

- A depository institution, or a subsidiary that is owned and controlled by a depository institution, or an institution regulated by the Farm Credit Administration.
- Any mortgage lender who holds a valid license under the provisions of the Small Loan Regulatory Law, Section 75-67-101 et seq., and the Small Loan Privilege Tax Law, Section 75-67-201 et seq., and whose mortgage lending activities are limited solely to the servicing of mortgage loans that were in such mortgage lender's own loan portfolio as of December 31, 2009. For the purposes of the exemption in this paragraph (f), "servicing of mortgage loans" shall mean and include the collection of payments of principal and interest, insurance premiums, taxes and other payments required under such mortgage loans, and shall also include activities related to the collection of such payments such as collection calls whether by phone, mail, electronic means or in person, and enforcement remedies permitted by law or at equity. In no event shall the term "servicing of mortgage loans" include the renewal or reworking of the mortgage. If a mortgage loan is renewed or reworked, the lender shall be required to obtain a mortgage license in order to continue any mortgage activity described in this chapter.
- Any bona fide nonprofit organization and its employees who demonstrate to the satisfaction of the commissioner through the specific examination of books and activities of the organization as required in Section 81-18-21, Mississippi Code of 1972, that they continually meet the following requirements, at a minimum:
 - Maintains tax-exempt status under Section 501(c)(3) of the Internal Revenue Code of 1986
 - Promotes affordable housing or provides homeownership education, or similar services
 - Conducts its activities in a manner that serves public or charitable purposes
 - Receives funding and revenue and charges fees in a manner that does not incentivize employees to act other than in the best interests of its client, and
 - Provides to or identifies for the borrower, residential mortgage loans with terms that are favorable to the borrower and comparable to mortgage loans and housing assistance provided under government housing assistance programs.
- Any person who is an employee of a government agency or housing finance agency who acts as a mortgage loan originator in accordance with his duties as an employee of such agency.
- Any person who performs clerical or support duties at the direction of, and subject to, the supervision and instruction of a state-licensed loan originator or a registered loan originator. For purposes of this paragraph, the term "clerical or support duties" may include:
 - The receipt, collection, distribution and analysis of information common for the processing or underwriting of a residential loan, and
 - Communicating with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that such communication does not include offering or negotiating loan rates or terms, or counseling consumers about residential mortgage loan rates or terms.

LICENSEE QUALIFICATIONS AND APPLICATION PROCESS - (Miss. Code Ann. § 81-18-9)

- Application for License
 - An application for a license shall be made through the NMLSR and in the form as the Department may prescribe
 - The application shall include, but is not limited to the following:
 - The legal name, residence, and business address of the applicant and, if applicable, of every principal, together with the resume of the applicant and of every principal of the applicant
 - The legal name of the mortgage broker or mortgage lender in addition to the name under which the applicant will conduct business in the state, neither of which may be already assigned to a licensed mortgage broker or mortgage lender
 - The complete address of the applicant's principal place of business, branch office(s), and any other locations at which applicant will engage in any business activity covered by the SAFE Act
 - A copy of the certificate of incorporation, if a Mississippi corporation
 - Documentation satisfactory to the Department as to a certificate of existence of authority to transact business lawfully in Mississippi from the Mississippi Secretary of State, if a limited liability company, partnership, trust or any other group of persons, however organized
 - Does not pertain to applicants organized as an individual or as a sole proprietorship
 - If a foreign entity, a copy of a certificate of authority to conduct business in Mississippi and the address of the principal place of business of the foreign entity
 - Documentation of a minimum of 2 years experience directly in mortgage lending by a person named as the qualifying individual of the company.
 - Copies of business licenses issued by governmental agencies
 - This experience shall have been within the previous 2 years from the date of application
 - The qualifying individual shall also be licensed as a loan originator
 - A person must be named the qualifying individual for a company applying for a mortgage broker or lender license
 - Qualifying individual is an employee of the mortgage broker or lender who submits documentation of a minimum of two (2) years direct experience in mortgage lending
 - Experience must be within the last two (2) years of the date of application
 - Residency must be within 125 miles of the mortgage broker or lender's address listed on their main license
 - Not required to be an owner or co-owner of the company
 - Must be a loan originator and meet the requirements of the Mississippi SAFE Mortgage Licensing Act of 2009
 - Will have to complete the required continuing education in order for the mortgage broker or lender to renew their license

- May only work for one mortgage broker or lender
- The application shall be filed together with the following:
 - The license fee
 - A completed form signed by an owner, chief executive originator or named principal originator authorizing the department to obtain information from outside sources for each person, executive originator and employee
 - An original or certified copy of a surety bond in favor of the State of Mississippi
 - A set of fingerprints from any local law enforcement agency from the following applicants:
 - All persons operating as a sole proprietorship that plan to conduct a mortgage brokering or lending business in the State of Mississippi
 - Partners in a partnership or principal owners of a limited liability company that own at least 10% of the voting shares of the company
 - Any shareholders owning 10% or more of the outstanding shares of the corporation
 - All executive officers of the applicant
 - All loan originators
 - The named qualifying individual of the company
 - The applicant shall name only one (1) person as the qualifying individual for the State of Mississippi.
 - At least one employee shall be licensed as a loan originator at a licensed location

LICENSEE QUALIFICATIONS AND APPLICATION PROCESS - (Miss. Code Ann. § 81-18-9)

- Licensing Procedures and Criteria
 - Upon receipt of an application for licensure, which shall include the required set of fingerprints, the Department shall conduct an investigation to determine that the applicant:
 - Has good character and ethical reputation
 - Demonstrates reasonable financial responsibility
 - Has reasonable policies and procedures to receive and process customer grievances and inquiries promptly and fairly
 - The Department shall not license an applicant unless it is satisfied that the applicant will operate its mortgage activities in compliance with the laws, rules and regulations of Mississippi and the United States

LICENSEE QUALIFICATIONS AND APPLICATION PROCESS - (Miss. Code Ann. § 81-18-11)

- Financial Responsibility - Surety Bond
 - Each mortgage loan originator shall be covered by a surety bond in accordance with this section. If the mortgage loan originator is an employee or exclusive agent of a person subject to this chapter, the surety bond of the person who is subject to this chapter may be used in lieu of the mortgage loan originator's surety bond requirement.
 - The surety bond shall be in a form as prescribed by the Commissioner, and shall provide coverage for each mortgage loan originator in an amount as prescribed in this subsection
 - The penal sum of the surety bond shall be maintained in an amount that reflects the dollar amount of loans originated as determined by the Commissioner, but shall not exceed \$25,000.00 for a mortgage broker or \$150,000.00 for a mortgage lender
 - When an action is commenced on a licensee's bond, the Commissioner may require the filing of a new bond. Immediately upon recovery upon any action on the bond, the licensee shall file a new bond
 - All surety bonds shall be in favor, first, of the State of Mississippi for the use, benefit and indemnity of any person who suffers any damage or loss as a result of the company's breach of contract or of any obligation arising from contract or any violation of law, and, second, for the payment of any civil penalties, criminal fines, or costs of investigation and/or prosecution incurred by the State of Mississippi, including local law enforcement agencies
 - The Commissioner may promulgate rules or regulations with respect to the requirements for the surety bonds as are necessary to accomplish the purposes of this chapter

LICENSEE QUALIFICATIONS AND APPLICATION PROCESS - (Miss. Code Ann. § 81-18-13)

- Background Check and Fingerprints
 - The Commissioner and/or the NMLSR shall forward the fingerprints submitted with the application to the Mississippi Department of Public Safety and to the FBI for a national criminal history check
 - The Commissioner may request a new set of fingerprints from any licensee at any time
 - If the application is withdrawn or denied, the license fees are non-refundable
 - Final verification of the background check includes any subsequent investigation that must occur to determine the disposition of an arrest indicated on the background check
- Application Submission
 - Within thirty (30) days after receipt of a completed application, final verification from the Department of Public Safety and/or FBI, and payment of licensing fees prescribed by this chapter, the department shall either grant or deny the request for license. However, if the Federal Financial Institutions Examination Council (FFIEC) prescribes a lesser period of time within which the department shall either grant or deny the request for license, then that time limitation shall supersede this subsection

LICENSEE QUALIFICATIONS AND APPLICATION PROCESS - (Miss. Code Ann. § 81-18-14)

- Pre-licensing Education and Experience
 - 20 hours of education approved by the NMLS&R is required, including at least:
 - 3 hours of federal law and regulations
 - 3 hours of ethics; shall include instruction on fraud, consumer protection and fair lending issues
 - 2 hours of training related to lending standards for the non-traditional mortgage product marketplace
 - 4 hours of education related to the Mississippi SAFE Mortgage Licensing Act of 2009
 - A person previously licensed who applies to be licensed again on or after July 1, 2009, must prove that they have completed all of the continuing education requirements for the year in which the license was last held
- Testing and Retesting
 - An individual shall pass a licensing exam developed by the NMLS&R
 - 75% required to pass licensing exam
 - An individual may take licensing exam 3 consecutive times with each consecutive taking occurring at least 30 days after the preceding test
 - After failing 3 consecutive tests, an individual shall wait at least 6 months before taking the test again
 - A licensed mortgage loan originator who fails to maintain a valid license for a period of 5 years or longer shall retake the test, not taking into account any time during which such individual is a registered mortgage loan originator

GROUND FOR DENYING A LICENSE - (Miss. Code Ann. § 81-18-13)

- Criminal Convictions
 - The Department shall not issue a license or registration if it finds that the applicant has been convicted of:
 - A felony in any jurisdiction
 - A crime that, if committed within Mississippi, would constitute a felony under the state laws
 - A misdemeanor of fraud, theft, forgery, bribery, embezzlement or making a fraudulent or false statement in any jurisdiction
- Previous Revocation
 - The Department shall deny or restrict a license or registration if it finds that the applicant has had any professional license denied, revoked or suspended by any state within two (2) years of the date of the application

LICENSE MAINTENANCE - (Miss. Code Ann. § 81-18-15)

- Continuing Education
 - 8 hours of NMLS&R approved continuing education is required including at least:
 - 3 hours of federal law and regulations
 - 2 hours of ethics
 - shall include instruction on fraud, consumer protection and fair lending issues
 - 2 hours of training related to lending standards for the nontraditional mortgage product marketplace
 - A licensed mortgage loan originator:
 - May only receive credit for a continuing education course in the year in which the course is taken
 - May not take the same approved course in the same or successive years to meet the annual requirements for continuing education,
 - 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 2 hours credit for every hour taught
- License Fee
 - Each mortgage broker and mortgage lender license shall remain in full force and effect until relinquished, suspended, revoked or expired. With each initial application for a license to operate as a mortgage broker or mortgage lender, the applicant shall pay through the Nationwide Mortgage Licensing System and Registry to the commissioner a license fee of \$1,500.00; however, if the initial mortgage broker or mortgage lender license is issued between November 1 and December 31, the license will expire December 31 of the following licensing year. Upon the expiration of the initial license, the licensee shall pay an annual renewal fee of \$1,000.00 on or before December 31 of each year.
 - If the annual renewal fee remains unpaid, the license shall expire, but not before December 31 of any year for which the annual renewal fee has been paid. If any person engages in business as provided for in this chapter without paying the license fee provided for in this subsection before commencing business or before the expiration of the person's current license, as the case may be, then the person shall be liable for the initial license fee, which is \$1,500.00, plus a penalty in an amount not to exceed \$25.00 for each day that the person has engaged in such business without a license or after the expiration of a license. All licensing fees and penalties shall be paid into the Consumer Finance Fund of the department. If the application is withdrawn or denied, the application fee along with any other applicable fee are not refundable.
 - The minimum standards for license renewal for mortgage loan originators shall include the following:
 - The mortgage loan originator continues to meet the minimum standards for license issuance under Section 81-18-9(4).
 - The mortgage loan originator has satisfied the annual continuing education requirements described in Section 81-18-15(5).

- The mortgage loan originator has paid all required fees for renewal of the license. Annual renewals of this license shall require a fee of One Hundred Dollars (\$ 100.00).
 - The license of a mortgage loan originator failing to satisfy the minimum standards for license renewal shall expire. The commissioner may adopt procedures for the reinstatement of expired licenses consistent with the standards established by the Nationwide Mortgage Licensing System and Registry. If the renewal fee remains unpaid, the license shall expire, but not before December 31 of any year for which the annual renewal fee has been paid. However, if the initial loan originator license is issued between November 1 and December 31, the license will expire December 31 of the following licensing year. If the renewal fee is not paid before the expiration date of the license, the mortgage loan originator shall be liable for the initial license fee, which is Two Hundred Dollars (\$ 200.00), in order to renew.

LICENSE MAINTENANCE - (Miss. Code Ann. § 81-18-17)

- Personal Information Updates and Required Notifications
 - Each license shall state:
 - The address of the licensee's principal place of business
 - The licensee's assigned licensed location
 - The name of the licensee
 - A licensee shall post the original license in a conspicuous place in the assigned place of business of the licensee
 - A license may not be transferred or assigned
 - No licensee shall transact business under any name other than that designated in the license
 - A licensed mortgage broker or mortgage lender shall notify the department through the Nationwide mortgage Licensing System and Registry of any change in the address of its principal place of business or of any change in the address of an additional licensed branch location within 30 days of the change
 - No licensee shall open a branch office in or outside Mississippi from which the licensee has direct contact with consumers regarding origination or brokering Mississippi residential property, without prior approval of the department
 - Each branch must have at least one licensed loan originator
 - The application shall be deemed approved if notice to the contrary has not been mailed by the department to the applicant within thirty (30) days of the date that the complete application is received by the department.
 - After approval, the applicant shall give written notice to the department within 10 days of the commencement of business at the branch office
 - Renewal
 - Each licensed branch office shall renew that branch license before the expiration date of the main company license, on or before December 31; however, if the initial branch license is issued between November 1 and December 31, the license will expire December 31 of the following licensing year.
 - If the renewal fee is not paid before the expiration date of the license, the branch shall be liable for the initial license fee in order to renew
 - A licensed mortgage broker or mortgage lender shall notify the department within thirty (30) days by submitting a sponsorship removal in the Nationwide Mortgage Licensing System and Registry when a loan originator is released from its employment.
 - In addition, the licensed mortgage broker or mortgage lender shall notify the department within thirty (30) days through the Nationwide Mortgage Licensing System and Registry when there is a change of the qualifying individual of the licensee.

LICENSE MAINTENANCE - (Miss. Code Ann. § 81-18-15)

- Renewal
 - The minimum standards for license renewal for mortgage loan originators shall include the following:
 - The mortgage loan originator continues to meet the minimum standards for license issuance
 - The mortgage loan originator has satisfied the annual continuing education requirements
 - The mortgage loan originator has paid all required fees for renewal of the license by December 31
 - The license of a mortgage loan originator failing to satisfy the minimum standards for license renewal shall expire.
 - The Commissioner may adopt procedures for the reinstatement of expired licenses consistent with the standards established by the Nationwide Mortgage Licensing System and Registry
 - If the renewal fee remains unpaid, the license shall expire, but not before December 31 of any year for which the annual renewal fee has been paid.
 - However, if the initial loan originator license is issued between November 1 and December 31, the license will expire December 31 of the following licensing year.
 - If the renewal fee is not paid before the expiration date of the license, the mortgage loan originator shall be liable for the initial license fee in order to renew
 - Any licensee making timely and proper application for a license renewal shall be permitted to continue to operate under its existing license until its application is approved or rejected, but shall not be released from or otherwise indemnified for any act covered by this chapter or for any penalty incurred under this chapter as a result of any violation of this chapter or regulations adopted under this chapter, pending final approval or disapproval of the application for the license renewal.

LICENSE MAINTENANCE - (Miss. Code Ann. § 81-18-19)

- Interest in Licensee
 - Upon the filing and investigation of an application, the department shall permit the applicant to acquire the interest in the licensee if it is satisfied and finds that the applicant and its members, if applicable, its directors and originators, if a corporation, and any proposed new directors and originators have provided its surety bond and have the character, reputation and experience to warrant belief that the business will be operated fairly and in accordance with the law. If the application is denied, the department shall notify the applicant of the denial and the reasons for the denial
 - A decision of the department denying a license, original or renewal, shall be conclusive, except that the applicant may seek judicial review in the Chancery Court of the First Judicial District of Hinds County, Mississippi
 - The provisions of this section do not apply to the following, subject to required notification:
 - The acquisition of an interest in a licensee directly or indirectly including an acquisition by merger or consolidation by or with a person licensed under this chapter or exempt from this chapter
 - The acquisition of an interest in a licensee directly or indirectly including an acquisition by merger or consolidation by or with a person affiliated through common ownership with the licensee
 - The acquisition of an interest in a licensee by a person by bequest, devise, gift or survivorship or by operation of law
 - A person acquiring an interest in a licensee in a transaction that is requesting exemption from filing an application for approval of the application shall send a written request to the department for an exemption within thirty (30) days before the closing of the transaction

LICENSE MAINTENANCE - (Miss. Code Ann. § 81-18-35)

- Record Keeping and Reporting
 - Journal of Mortgage Transactions must be maintained at the principal place of business
 - For all Mississippi residential loans that the licensee originated and/or funded (shall be separate from non-Mississippi loans) and shall include:
 - Name of applicant and co-applicant, if applicable
 - Date of application
 - Disposition of loan application, indicating date of loan funding per the HUD-1 Settlement Statement, loan denial, withdrawal and name of lender, if applicable
 - Property address
 - Loan amount
 - Terms
 - Loan program
 - Loan originator
 - For all Mississippi residential loans that the licensee owns and/or services (shall be separate from non-Mississippi loans) and shall include:
 - The number of mortgage loans the licensee is servicing
 - The type and characteristics of the loans
 - The number of serviced loans in default, along with a breakdown of 30, 60, and 90 day delinquencies
 - Information on loss mitigation activities, including details on workout arrangements undertaken and date loss mitigation application was submitted/approved/denied
 - Information on foreclosures commenced and completed
 - Name of applicant and co-applicant, if applicable
 - Date the loan was boarded/deboarded, if applicable

LICENSE MAINTENANCE - (Miss. Code Ann. § 81-18-21)

- Record Keeping and Reporting
 - Any person required to be licensed shall maintain in its offices, or such other location as the department shall permit, the books, accounts and records necessary for the department to determine whether or not the person is complying with the provisions of this chapter and the rules and regulations adopted by the department under this chapter.
 - These books, accounts and records shall be maintained apart and separate from any other business in which the person is involved and may represent historical data for three (3) years preceding the date of the last license application date forward. The books, accounts and records for individual consumer mortgage files shall be maintained apart and separate from any other personal loan files made by the same consumer. The books, accounts and records shall be kept in a secure location under conditions that will not lead to their damage or destruction. If the licensee wishes to keep the files in a location other than the location listed on the license, then the licensee first must submit a written request on a form designated by the department and gain written approval from the commissioner before storing the files at an off-site secure location
 - To assure compliance with the provisions of this chapter, the department may examine the books and records of any licensee without notice during normal business hours. The commissioner shall charge the licensee an examination

fee in an amount not less than \$300.00 nor more than \$600.00 per day with a maximum examination fee of \$2,400 for each office or location within the State of Mississippi, and an examination fee in an amount not less than \$300 nor more than \$800 per day for each office or location outside the State of Mississippi, plus any actual expenses incurred while examining the licensee's records or books that are located outside the State of Mississippi. However, in no event shall a licensee be examined more than once in a two-year period unless for cause shown based upon consumer complaint and/or other exigent reasons as determined by the commissioner

- The department, its designated originators and employees, or its duly authorized representatives, for the purposes of discovering violations of this chapter and for the purpose of determining whether any person or individual reasonably suspected by the commissioner of conducting business that requires a license under this chapter, may investigate those persons and individuals and examine all relevant books, records and papers employed by those persons or individuals in the transaction of business, and may summon witnesses and examine them under oath concerning matters as to the business of those persons, or other such matters as may be relevant to the discovery of violations of this chapter including, without limitation, the conduct of business without a license as required under this chapter
- Each licensee, individual or person subject to this chapter shall make available to the commissioner upon request the books and records relating to the operations of the licensee, individual or person subject to this chapter. The commissioner shall have access to those books and records and interview the originators, principals, mortgage loan originators, employees, independent contractors, agents, and customers of the licensee, individual or person subject to this chapter concerning their business. Failure to produce the books and records with 60 days from the date of request may result in a violation of this chapter, resulting in a civil penalty.
- Each licensee, individual or person subject to this chapter shall make or compile reports or prepare other information as directed by the commissioner in order to carry out the purposes of this section including, but not limited to:
 - Accounting compilations
 - Information lists and data concerning loan transactions in a format prescribed by the commissioner; or
 - Such other information deemed necessary to carry out the purposes of this section
- In making any examination or investigation authorized by this chapter, the commissioner may control access to any documents and records of the licensee or person under examination or investigation. The commissioner may take possession of the documents and records or place a person in exclusive charge of the documents and records in the place where they are usually kept
 - During the period of control, no individual or person shall remove or attempt to remove any of the documents and records except under a court order or with the consent of the commissioner
 - Unless the commissioner has reasonable grounds to believe the documents or records of the licensee have been or are at risk of being altered or destroyed for purposes of concealing a violation of this chapter, the licensee or owner of the documents and records shall have access to the documents or records as necessary to conduct its ordinary business affairs
- The commissioner shall report regularly violations of this chapter, as well as enforcement actions and other relevant information, to the Nationwide Mortgage Licensing System and Registry subject to the provisions contained in Section 81-18-63.
- Examinations and investigations conducted under this chapter and information obtained by the department, except as provided in subsection (7) of this section, in the course of its duties under this chapter are confidential.
- In the absence of malice, fraud or bad faith a person is not subject to civil liability arising from the filing of a complaint with the department, furnishing other information required by this chapter, information required by the department under the authority granted in this chapter, or information voluntarily given to the department related to allegations that a licensee or prospective licensee has violated this chapter. Failure of a person to respond to a formal complaint made with the department by a consumer may result in a violation of this chapter, resulting in a civil penalty.
- In order to carry out the purposes of this section, the commissioner may:
 - Accept and rely on examination or investigation reports made by other government officials, within or without this state; or
 - Accept audit reports made by an independent certified public accountant for the licensee, individual or person subject to this chapter in the course of that part of the examination covering the same general subject matter as the audit and may incorporate the audit report in the report of the examination, report of investigation or other writing of the commissioner; or
 - Rely upon attorneys, accountants, or other professionals and specialists as examiners, auditors or investigators to conduct or assist in the conduct of examinations or investigations; or
 - Enter into agreements or relationships with other government officials or regulatory associations, including, but not limited to, joint enforcement action, by sharing resources, standardized or uniform methods or procedures, and documents, records, information or evidence obtained under this section.
- The authority of this section shall remain in effect, whether such a licensee, individual or person subject to this chapter acts or claims to act under any licensing or registration law of this state, or claims to act without that authority.
- No licensee, individual or person subject to investigation or examination under this section may knowingly withhold, abstract, remove, mutilate, destroy, falsify, abandon or secret any books, records, computer records or other information.

ANNUAL WRITTEN REPORT BY LICENSEE (Miss. Code Ann. § 81-18-23)

- Each mortgage licensee shall 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. Failure to file accurate, timely and complete reports on the Nationwide Mortgage Licensing System and Registry may result in a violation of this chapter, resulting in a civil penalty.

- The department, in its discretion, may relieve any company from the payment of any penalty, in whole or in part, for good cause.
- If a company fails to pay a penalty from which it has not been relieved, the department may maintain an action at law to recover the penalty.
- Within fifteen (15) days of the occurrence of any of the following events, a company shall file with the Nationwide Mortgage Licensing System and Registry the applicable change in the disclosure questions and shall submit the information through the Nationwide Mortgage Licensing System and Registry or file a written report with the commissioner describing the event and its expected impact on the activities of the company in this state:
 - The filing for bankruptcy or reorganization by the company
 - The institution of revocation or suspension proceedings against the company by any state or governmental authority
 - Any felony indictment or conviction of the company or any of its directors, executive officers, qualifying individual or loan originators
 - Expiration, termination or default, technical or otherwise, of any existing line of credit or warehouse credit agreement
 - Suspension or termination of the licensee's status as an approved seller or seller/servicer by the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, or Government National Mortgage Association
 - Exercise of recourse by investors or subsequent assignees of mortgage loans if such loans, in the aggregate, exceed the licensee's net worth exclusive of real property and fixed assets
 - Existence of negative balances, exceeding one hundred dollars (\$100.00) in any operation account at any time or the return of checks, exceeding one hundred dollars (\$100.00) for insufficient funds
- Licensees who are involved in civil actions shall notify the Nationwide Mortgage Licensing System and Registry within sixty (60) days of the occurrence. An explanation and supporting documentation for each civil action concerning the company shall be submitted through the Nationwide Mortgage Licensing System and Registry. The department may require additional information as necessary.

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Retail Sellers of Manufactured Homes (Miss. Code Ann. § 81-18-53)

- The provisions of this chapter shall apply to the activities of retail sellers of manufactured homes to the extent as determined by the United States Department of Housing and Urban Development through guidelines, rules, regulations or interpretive letters



PROHIBITED CONDUCT AND PRACTICES - (Miss. Code Ann. § 81-18-27)

- No person required to be licensed shall:
 - Directly or indirectly employ any scheme, device or artifice to defraud or mislead borrowers or lenders, or to defraud any person
 - Misrepresent to or conceal from an applicant for a mortgage loan or mortgagor, material facts, terms or conditions of a transaction to which the licensee is a party
 - Fail to disburse funds in accordance with a written commitment or agreement to make a mortgage loan
 - Fail to truthfully account for monies belonging to a party to a residential mortgage loan transaction
 - Improperly refuse to issue a satisfaction of a mortgage loan
 - Fail to account for or deliver to any person any personal property obtained in connection with a mortgage loan
 - Engage in any transaction, practice, or course of business that is not in good faith, or that operates a fraud upon any person in connection with the making of or purchase or sale of any mortgage loan
 - Engage in any fraudulent residential mortgage underwriting practices
 - Solicit or enter into a contract with a borrower that provides in substance that the person or individual may earn a fee or commission through "best efforts" to obtain a loan, even though no loan is actually obtained for the borrower
 - Induce, require, or otherwise permit the applicant for a mortgage loan or mortgagor to sign a security deed, note, or other pertinent financial disclosure documents with any blank spaces to be filled in after it has been signed
 - An exception would be blank spaces relating to recording or other incidental information not available at the time of signing
 - Make, directly or indirectly, any residential mortgage loan with the intent to foreclose on the borrower's property
 - There is a presumption that a person has made a residential mortgage loan with the intent to foreclose on the borrower's property if any of the following circumstances are proven:
 - Lack of substantial benefit to the borrower
 - The probability that full payment of the loan cannot be made by the borrower
 - That the person has made a significant proportion of loans foreclosed under similar circumstances
 - That the person has provided an extension of credit or collected a mortgage debt by extortion
 - That the person does business under a trade name that misrepresents or tends to misrepresent that the person is a(n):
 - Bank
 - Trust company
 - Savings bank
 - Savings and loan association
 - Credit union
 - Insurance company
 - Charge or collect any direct payment, compensation or advance fee from a borrower unless and until a loan is actually found, obtained and closed for that borrower
 - In no event shall that direct payment, compensation or advance fee exceed 7.95% of the original principal amount of the loan
 - Any such direct payments, compensation or advance fees shall be included in all annual percentage rate (APR) calculations, if required under Regulation Z
 - A direct payment, compensation or advance fee shall not include:
 - Any direct payment, compensation or advance fee collected by a licensed mortgage broker or mortgage lender to be paid to a non-related third party
 - Any indirect payment to a licensed mortgage broker or mortgage lender by a lender if those fees are not required to be disclosed under the Real Estate Settlement Procedures Act (RESPA)
 - Any indirect payment or compensation by a lender to a licensee required to be disclosed by the licensee under RESPA, provided that the payment or compensation is:
 - Disclosed to the borrower by the licensee on a good faith estimate of costs
 - Included in the APR, if required under Regulation Z of TILA
 - Is made pursuant to a written agreement between the licensee and the borrower as may be required
 - A fee not to exceed 1% of the principal amount of a loan for construction, provided that a binding commitment for the loan has been obtained for the prospective borrower

- An advance fee, known as a lock-in fee, collected by a licensee to be paid to a lender to lock in an interest rate and/or a certain number of points on a mortgage loan from the lender
 - Pay to any person not licensed, any commission, bonus, or fee in connection with arranging for or originating a mortgage loan for a borrower
 - A licensed loan originator may be paid a bonus, commission, or fee by his or her licensed employer
 - Refuse to provide the loan payoff within 3 business days of an oral or written request from a borrower or third party and charge a fee for that payoff
 - Unless the lender charges a reasonable fee for a payoff statement exceeding the 5 non-charge payoff statements allowed to the borrower
 - Knowingly withhold, extract, remove, mutilate, destroy or conceal any books, records, computer records or other information which are required by law to be disclosed
 - Negligently make any false statement or knowingly and willfully make any omission of material fact in connection with any information or reports filed with a governmental agency or the NMLS&R or in connection with any investigation conducted by the Commissioner or another governmental agency
 - Fail to comply with the Mississippi S.A.F.E. Mortgage Lending Act or promulgated rules or regulations, or fail to comply with any other state or federal law, including the rules and regulations under that law, applicable to any business authorized or conducted under Mississippi S.A.F.E. Mortgage Lending Act of 2009
 - Conduct any business covered by Mississippi S.A.F.E. Mortgage Lending Act of 2009 without holding a valid license, or assist or aid and abet any person in the conduct of business under Mississippi S.A.F.E. Mortgage Lending Act of 2009 without a valid license
 - Make any payment, threat or promise, directly or indirectly, to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan, or make any payment threat or promise, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property
 - Solicit, advertise or enter into a contract for specific interest rates, points or other financing terms unless the terms are actually available at the time of soliciting, advertising or contracting
 - Fail to make required disclosures and any other applicable state or federal law including regulations under that law
 - Cause or require a borrower to obtain property insurance coverage in an amount that exceeds the replacement cost of the improvements as established by the property insurer
 - Sign a consumer's name to an application or other mortgage loan document on the behalf of a consumer
 - Knowingly falsify income or asset information on a mortgage loan application or mortgage loan documents
 - Discourage a consumer in a mortgage loan transaction from seeking or obtaining independent legal counsel or legal advice
- A licensed mortgage broker or mortgage lender shall only broker a residential mortgage loan to a licensed mortgage broker or mortgage lender, or to a person exempt from licensure
- No non-banking entity may use any sign or handwritten or printed paper indicating that it is a bank, savings bank, trust company or place of banking
- No person shall use the name or logo of any banking entity in connection with the sale, offering for sale, or advertising of any financial product or service without the express written consent of the banking entity
- No unlicensed Mississippi location of a Mississippi licensed mortgage broker or mortgage lender may advertise mortgage services if the unlicensed location is more than 50 miles from a licensed Mississippi location

FEES AND CHARGES - (Miss. Code Ann. § 81-18-28)

- Lock-In Fees
 - A licensed mortgage broker or mortgage lender may enter into lock-in agreements and collect a lock-in fee from a borrower on the lender's behalf
 - The lock-in fee shall not exceed the following:
 - Less than 60 days = no fee may be collected
 - 60 days to 180 days = 1% of the principal amount of the loan
 - 180 days to 270 days = 1-1/2% of the principal amount of the loan
 - More than 270 days = 2% of the principal amount of the loan to lock in for more than 270 days
 - Before the collection of a lock-in fee, the applicant must be provided a copy of the lock-in agreement, which shall contain at least the following:
 - Identification of the property that is being associated with the loan
 - The principal amount and term of the loan
 - The initial interest rate and/or points
 - Whether the interest rate is fixed or variable, and
 - If variable, the index and margin, or the method by which an interest rate change for the mortgage loan will be calculated
 - The amount of the lock-in fee
 - Whether the fee is refundable or non-refundable,
 - The time by which the lock-in fee must be paid to the lender, and
 - If the fee is refundable, the terms and conditions necessary to obtain the refund
 - The length of the lock-in period that the agreement covers
 - May be collected by the broker only on behalf of the lender
 - The fee is made payable to the broker
 - The fee must be placed in the broker's escrow account until it is transferred to the lender

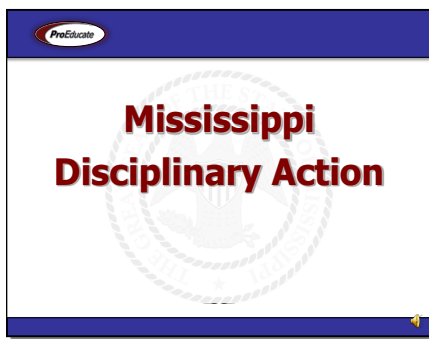
- The mortgage broker may not charge or collect a lock-in fee that is not on behalf of a named lender
- If the lock-in fee is refundable, the lock-in agreement is to state if the consumer will receive payment back in the form of a check or in the form of a reduction of origination fees at closing from the mortgage company

FEES AND CHARGES - (Miss. Code Ann. § 81-18-36)

- Funds paid to mortgage company for payment of taxes or insurance premiums
 - All monies shall be deposited in an account that is insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration and shall be kept separate, distinct, and apart from funds belonging to the licensee
 - The funds, when deposited, are to be designated as an "escrow account," or under some other appropriate name, indicating that the funds are not the funds of the licensee
 - The licensee shall, upon reasonable notice, account to any debtor whose property secures a loan made by the licensee for any funds which that person has paid to the licensee for the payment of taxes or insurance premiums on the property in question
 - The licensee shall, upon reasonable notice, account to the Commissioner for all funds in the company's escrow account
 - Escrow accounts are not subject to execution or attachment on any claim against the licensee
 - It is unlawful for any licensee knowingly to keep or cause to be kept any funds or money in their escrow account, except actual funds paid to the licensee for the payment of taxes and insurance premiums on property securing loans made or serviced by the company

ADVERTISING - (Miss. Code Ann. § 81-18-31)

- Advertisements are considered to be in print or by electronic means and include:
 - Internet websites and advertisements
 - Business cards
- All advertisements for loans may not be false, misleading or deceptive
 - No person may advertise in any manner so as to indicate or imply that its interest rates or charges for loans are "recommended", "approved", "set" or "established" by the State of Mississippi
- All licensees shall maintain a copy of all advertisements citing interest rates or payment amounts primarily disseminated in Mississippi and shall attach to each advertisement documentation that:
 - Provides corroboration of the availability of the interest rate and terms of loans
 - Names the specific media sources by which the advertisements were distributed
- All published advertisements disseminated primarily in Mississippi shall contain the name and an office address of the licensee
 - Shall be the same as the name and address of the licensee on record with the Department
- An advertisement containing either a quoted interest rate or monthly payment amount must include:
 - The interest rate of the mortgage, a statement as to whether the rate is fixed or adjustable, and the adjustment index and frequency of adjustments
 - The term in years or months to fully repay the mortgage
 - The APR as computed under federal guidelines
- No licensee shall advertise its services in Mississippi in any media disseminated primarily in Mississippi, whether print or electronic, without the words "Mississippi Licensed Mortgage Company" or the words "Licensed by the Mississippi Department of Banking and Consumer Finance"
- The NMLS&R unique identifier of any person originating a residential mortgage loan shall be clearly shown on:
 - All residential mortgage loan application forms
 - All solicitations or advertisements, including business cards or websites, and
 - Any other documents as established by rule, regulation or order of the Commissioner



CEASE AND DESIST ORDER - (Miss. Code Ann. § 81-18-39)

- The Department may issue a written order requiring the person to cease and desist from unlawful or unauthorized practices
 - In the case of an unlawful purchase of mortgage loans, the cease and desist order to a purchaser shall constitute the knowledge required for any subsequent violations

SUSPENSION AND REVOCATION OF LICENSES - (Miss. Code Ann. § 81-18-37)

- The Department may suspend or revoke a license for:
 - A violation of any provision, rule or regulation adopted under the Mississippi SAFE Act
 - Failure of the licensee to pay, within 30 days after it becomes final and non-appealable, a judgment recovered in any court within Mississippi by a claimant or creditor in an action arising out of the licensee's business as a mortgage broker or mortgage lender
 - Notice of the Department's intention to enter an order denying an application for a license, or of an order suspending or revoking a license, shall be given to the applicant, licensee in writing, sent by registered or certified mail addressed to the principal place of business of the applicant or licensee
 - Within 30 days of the date of the notice of intention to enter an order of denial, suspension or revocation, the applicant or licensee may request in writing a hearing to contest the order
 - If a hearing is not requested in writing within 30 days of the date of the notice of intention, the Department shall enter a final order regarding the denial, suspension or revocation
 - Any final order of the Department denying, suspending or revoking a license shall state the grounds upon which it is based and shall be effective on the date of issuance
 - A copy of the final order shall be forwarded promptly by registered or certified mail addressed to the principal place of business of the applicant or licensee

PENALTIES AND FINES - (Miss. Code Ann. § 81-18-43)

- Any licensed person who has been deemed by the Commissioner, after notice and hearing, to have violated the terms of any order properly issued by the department shall be liable for a civil penalty not to exceed \$25,000
- Each violation or failure to comply with any directive or order of the Commissioner is a separate and distinct violation or failure
- If the licensee, person required to be licensed, or employee is found guilty of a misdemeanor and, upon conviction thereof, it shall be punishable by:
 - Imprisonment in the county jail for not more than 1 year for a first offense
 - Imprisonment in the custody of the State Department of Corrections for a term not less than 1 year nor more than 5 years for a second or subsequent offense
- Compliance with the criminal provisions of this rule shall be enforced by the appropriate law enforcement agency, which may exercise for that purpose any authority conferred upon the agency by law
- The Commissioner shall report regularly violations, as well as enforcement actions and other relevant information, to the NMLS&R

PENALTIES AND FINES - (Miss. Code Ann. § 81-18-40)

- For the purpose of conducting investigations, examinations or other proceedings under this chapter, the commissioner or his designee may issue subpoenas to any individual, person or other entity for the production of all books, papers, records, files, documents or other things, and may subpoena and compel the attendance of witnesses to give testimony, and may administer oaths. Subpoenas as herein provided may be served either by personal process or by registered mail, and upon service shall command attendance of such witnesses, and/or production of such papers and documents, at the time and place so specified.
- Any person or entity who fails or refuses to comply with a subpoena issued may be assessed a civil penalty up to \$500 for each day of non-compliance
 - Any privileges or licenses issued to the person or entity may be suspended up to 6 months
 - In addition to the civil penalty, the commissioner shall be entitled to the assistance of the chancery court or the chancellor in vacation, which, on petition by the commissioner or his designee, shall issue ancillary

subpoenas and petitions and may punish as for contempt of court in the event of noncompliance therewith, and assess attorney's fees and costs, if deemed appropriate.

NOTIFICATIONS, HEARINGS, AND APPEALS - (Miss. Code Ann. § 81-18-43)

- Any person assessed a penalty shall have the right to request a hearing within 10 days after receiving notification of the assessment
 - If no hearing is requested within 10 days, the penalty shall be final except as to judicial review in the Chancery Court of the First Judicial District of Hinds County
 - Upon the filing of a petition for judicial review, the court shall issue an order to the licensee requiring the licensee to show cause why it should not be entered

CIVIL AND CRIMINAL LIABILITY - (Miss. Code Ann. § 81-18-47)

- A licensee shall have no liability for any act or practice done or omitted in conformity with (a) any rule or regulation of the commissioner, or (b) any rule, regulation, interpretation or approval of any other state or federal agency or any opinion of the Attorney General, notwithstanding that after such act or omission has occurred the rule, regulation, interpretation, approval or opinion is amended, rescinded, or determined by judicial or other authority to be invalid for any reason
- A licensee acting in conformity with a written interpretation or approval by an official or employee of any state or federal agency or department, shall be presumed to have acted in accordance with applicable law, notwithstanding that after such act has occurred, the interpretation or approval is amended, rescinded, or determined by judicial or other authority to be incorrect or invalid for any reason