

REFERENCE TITLE: loan originator licensing

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

HB 2320

Introduced by
Representatives McLain: Adams, Crump, Konopnicki, Nelson, Reagan, Tobin

AN ACT

CHANGING THE DESIGNATION OF TITLE 6, CHAPTER 9, ARIZONA REVISED STATUTES, TO "MORTGAGE BROKERS, MORTGAGE BANKERS AND LOAN ORIGINATORS"; AMENDING SECTIONS 6-122, 6-126, 6-135, 6-901, 6-903 AND 6-909, ARIZONA REVISED STATUTES; AMENDING TITLE 6, CHAPTER 9, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 6-911; AMENDING TITLE 6, CHAPTER 9, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 4; PROVIDING FOR THE DELAYED REPEAL OF SECTION 6-911, ARIZONA REVISED STATUTES, AS ADDED BY THIS ACT; RELATING TO LOAN ORIGINATORS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Heading change

3 The chapter heading of title 6, chapter 9, Arizona Revised Statutes, is
4 changed from "MORTGAGE BROKERS AND MORTGAGE BANKERS" to "MORTGAGE BROKERS,
5 MORTGAGE BANKERS AND LOAN ORIGINATORS".

6 Sec. 2. Section 6-122, Arizona Revised Statutes, is amended to read:
7 6-122. Superintendent; authority; duties; exemption

8 A. The superintendent has the authority and responsibility for the
9 discharge of all duties imposed by law on the department.

10 B. The superintendent shall:

11 1. Examine or cause to be examined each financial institution
12 annually, except financial institution holding companies, banks, savings and
13 loan associations, credit unions and consumer lenders, and more frequently if
14 the superintendent considers it necessary.

15 2. Examine or cause to be examined each bank, credit union and savings
16 and loan association at the superintendent's discretion but at least once in
17 every twenty-four month period.

18 3. Examine or cause to be examined the business and affairs of any
19 enterprise and any consumer lender for the purpose of administering and
20 enforcing this title at the superintendent's discretion but at least once in
21 a five year period.

22 4. Examine or cause to be examined financial institution holding
23 companies as frequently as the superintendent considers necessary to
24 administer and enforce this title.

25 5. Notwithstanding paragraph 3, examine or cause to be examined the
26 accounts held in trust by each escrow agent at least once in every two year
27 period in accordance with section 20-1593 and examine or cause to be examined
28 each escrow agent at least once in every four year period or more frequently
29 if the superintendent considers it necessary.

30 6. Notwithstanding paragraph 3, examine or cause to be examined each
31 premium finance company at least once in every three year period and more
32 frequently if the superintendent considers it necessary.

33 7. Publish a consumer information brochure that includes:

34 (a) The finance charges permitted by this state.

35 (b) The types of insurance that may be offered but that are not
36 required by law to be purchased with the granting of a loan.

37 (c) Interest rate limitations on all lenders, including amounts that
38 may not be charged to borrowers.

39 (d) Consumer rights and means of recourse from unfair practitioners.

40 8. Conduct a survey in January and July of each calendar year of each
41 escrow agent that is regulated by the department. The superintendent shall
42 compile the results of each survey and make those results available to the
43 public. The survey shall be in substantially the following format:

44 "Please rate the performance of the department of financial
45 institutions as one of the following: excellent, very good, good, fair, poor.

1 Please describe any problems that you believe should be addressed by
2 the department."

3 C. Notwithstanding subsection B, paragraph 5 of this section, an
4 escrow agent shall be examined within twelve months when an escrow agent's
5 license is transferred or assigned pursuant to section 6-813 or when control
6 of the license is otherwise acquired.

7 D. Subsection B, paragraph 3 of this section does not apply to motor
8 vehicle dealers, sales finance companies, **LOAN ORIGINATORS** or persons
9 licensed under chapter 12 of this title.

10 Sec. 3. Section 6-126, Arizona Revised Statutes, is amended to read:

11 **6-126. Application fees for financial institutions and**
12 **enterprises**

13 A. The following nonrefundable fees are payable to the department with
14 the filing of the following applications:

- 15 1. To apply for a banking permit, ten thousand dollars.
- 16 2. To apply for an amendment to a banking or savings and loan
17 association permit, one thousand dollars.
- 18 3. To establish each banking branch office, one thousand five hundred
19 dollars.
- 20 4. To move a banking office to other than an established office of a
21 bank, one thousand dollars.
- 22 5. To apply for a savings and loan association permit, ten thousand
23 dollars.
- 24 6. To establish each savings and loan association branch office, one
25 thousand five hundred dollars.
- 26 7. To move an office of a savings and loan association to other than
27 an established office, one thousand dollars.
- 28 8. To organize and establish a credit union, one hundred dollars.
- 29 9. To establish each credit union branch or credit union freestanding
30 automated teller machine or to move a credit union office to other than an
31 established office of a credit union, two hundred fifty dollars.
- 32 10. To organize and establish any other financial institutions for
33 which an application or investigation fee is not otherwise provided by law,
34 two thousand five hundred dollars.
- 35 11. To acquire control of a financial institution, other than a
36 consumer lender, five thousand dollars.
- 37 12. To apply for a trust company license, five thousand dollars.
- 38 13. To apply for a commercial mortgage banker, mortgage banker, escrow
39 agent or consumer lender license, one thousand five hundred dollars.
- 40 14. To apply for a mortgage broker, sales finance company or debt
41 management company license, eight hundred dollars.
- 42 15. To apply for a collection agency license, one thousand five hundred
43 dollars.
- 44 16. To apply for a deferred presentment company license, one thousand
45 dollars.

- 1 17. To apply for a motor vehicle dealer license, three hundred dollars.
2 18. To apply for a branch office of an escrow agent, consumer lender,
3 commercial mortgage banker, mortgage banker, trust company, money
4 transmitter, collection agency or deferred presentment company, five hundred
5 dollars.
6 19. To apply for a branch office of a mortgage broker, debt management
7 company or sales finance company, two hundred fifty dollars.
8 20. To apply for approval of the articles of incorporation of a
9 business development corporation, five hundred dollars.
10 21. To establish each freestanding automated teller machine, not
11 otherwise provided by law, five hundred dollars.
12 22. To apply for approval for the merger or consolidation of two or
13 more financial institutions, five thousand dollars per institution.
14 23. To apply for approval to convert from a national bank or federal
15 savings and loan charter to a state chartered institution, five thousand
16 dollars.
17 24. To apply for approval to convert from a federal credit union to a
18 state chartered credit union, one thousand dollars.
19 25. To apply for approval to merge or consolidate two or more credit
20 unions, five hundred dollars per credit union.
21 26. To move an established office of an enterprise to other than an
22 established office, fifty dollars.
23 27. To issue a duplicate or replace a lost enterprise's license, one
24 hundred dollars.
25 28. To change a responsible person on a mortgage broker's, commercial
26 mortgage banker's or a mortgage banker's license, two hundred fifty dollars.
27 29. To change an active manager on a collection agency license or a
28 manager of a money transmitter branch office license, two hundred fifty
29 dollars.
30 30. To change the licensee name on a financial institution or
31 enterprise license, two hundred fifty dollars.
32 31. To apply for a money transmitter license, one thousand five hundred
33 dollars plus twenty-five dollars for each branch office and authorized
34 delegate to a maximum of four thousand five hundred dollars.
35 32. To acquire control of any money transmitter or controlling person
36 pursuant to chapter 12 of this title, two thousand five hundred dollars.
37 33. To receive the following publications:
38 (a) Quarterly bank and savings and loan statement of condition, not
39 more than ten dollars per copy.
40 (b) Monthly summary of actions report, not more than five dollars per
41 copy.
42 (c) A list of licensees, a monthly pending actions report and all
43 other in-house prepared reports or listings made available to the public, not
44 more than one dollar per page.

1 34. TO APPLY FOR A LOAN ORIGINATOR LICENSE, AN AMOUNT TO BE DETERMINED
2 BY THE SUPERINTENDENT.

3 B. On issuance of a license or permit for a financial institution or
4 enterprise, the superintendent shall collect the first year's annual
5 assessment or renewal fee for the financial institution or enterprise
6 prorated according to the number of quarters remaining until the date of the
7 next annual assessment or renewal.

8 C. The following annual renewal fees shall be paid each year:

9 1. For an escrow agent, or trust company, one thousand dollars plus
10 two hundred fifty dollars for each branch office.

11 2. For a debt management company or sales finance company, five
12 hundred dollars plus two hundred dollars for each branch office.

13 3. For a collection agency, six hundred dollars plus two hundred
14 dollars for each branch office.

15 4. For a motor vehicle dealer, one hundred fifty dollars.

16 5. For an inactive mortgage broker, two hundred fifty dollars.

17 6. For a mortgage banker that negotiates or closes in the aggregate
18 one hundred loans or less in the immediately preceding calendar year, seven
19 hundred fifty dollars, and for a mortgage banker that negotiates or closes in
20 the aggregate over one hundred loans in the immediately preceding calendar
21 year, one thousand two hundred fifty dollars. In addition, a mortgage banker
22 shall pay two hundred fifty dollars for each branch office.

23 7. For a commercial mortgage banker, one thousand two hundred fifty
24 dollars. In addition, a commercial mortgage banker shall pay two hundred
25 fifty dollars for each branch office.

26 8. For a mortgage broker that negotiates or closes in the aggregate
27 fifty loans or less in the immediately preceding calendar year, two hundred
28 fifty dollars and for a mortgage broker that negotiates or closes in the
29 aggregate more than fifty loans in the immediately preceding calendar year,
30 five hundred dollars. In addition, a mortgage broker shall pay two hundred
31 dollars for each branch office.

32 9. For a consumer lender, one thousand dollars plus two hundred
33 dollars for each branch office.

34 10. For a money transmitter, five hundred dollars plus twenty-five
35 dollars for each branch office and each authorized delegate to a maximum of
36 two thousand five hundred dollars.

37 11. For a deferred presentment company, four hundred dollars. In
38 addition, a deferred presentment company shall pay two hundred dollars for
39 each branch office.

40 12. FOR A LOAN ORIGINATOR, AN AMOUNT TO BE DETERMINED BY THE
41 SUPERINTENDENT.

42 13. FOR AN INACTIVE STATUS LOAN ORIGINATOR, AN AMOUNT TO BE DETERMINED
43 BY THE SUPERINTENDENT.

44 D. The license, renewal or branch office permit fee for a premium
45 finance company for each calendar year or part thereof shall not be less than

1 one hundred dollars or more than three hundred dollars as set by the
2 superintendent. If the license is issued or the branch office is opened
3 after June 30 in any year, the fees shall not be less than fifty dollars or
4 more than one hundred fifty dollars for that year.

5 Sec. 4. Section 6-135, Arizona Revised Statutes, is amended to read:
6 6-135. Department revolving fund; use of fund

7 A. There is established a department revolving fund to be administered
8 by the superintendent under the conditions and for the purposes provided by
9 this section. Monies in the fund are exempt from the provisions of section
10 35-190, relating to the lapsing of appropriations.

11 B. Any investigative costs, attorney fees or civil penalties recovered
12 for the state by the attorney general or the superintendent as a result of
13 actions brought pursuant to this title, whether by final judgment, settlement
14 or otherwise, shall be deposited in the department revolving fund. ANY
15 LICENSE APPLICATION, LICENSE RENEWAL OR OTHER LICENSE MAINTENANCE FEE RELATED
16 TO LOAN ORIGINATOR LICENSES AUTHORIZED UNDER CHAPTER 9, ARTICLE 4 OF THIS
17 TITLE SHALL BE DEPOSITED IN THE REVOLVING FUND. If the unencumbered portion
18 of the fund exceeds TWO HUNDRED fifty thousand dollars at the end of the
19 fiscal year, all unencumbered monies in excess of TWO HUNDRED fifty thousand
20 dollars shall be deposited in the department receivership revolving fund,
21 pursuant to section 6-135.01.

22 C. MONIES COLLECTED PURSUANT TO SECTION 6-911 SHALL BE DEPOSITED IN
23 THE FUND AND SHALL BE USED BY THE SUPERINTENDENT FOR THE COSTS OF
24 IMPLEMENTING CHAPTER 9, ARTICLE 4 OF THIS TITLE.

25 ~~C.~~ D. The monies in the fund shall be used by:

26 1. The superintendent and the attorney general for investigative
27 proceedings or for purposes of instituting and prosecuting civil actions
28 pursuant to this title.

29 2. THE SUPERINTENDENT FOR THE COSTS OF ADMINISTERING CHAPTER 9,
30 ARTICLE 4 OF THIS TITLE.

31 ~~D.~~ E. On or before the fifteenth day of February, May, August and
32 November, the superintendent shall file with the governor, with copies to the
33 director of the department of administration, the president of the senate and
34 the speaker of the house of representatives, a full and complete account of
35 the receipts and disbursements from the fund in the previous calendar
36 quarter.

37 Sec. 5. Section 6-901, Arizona Revised Statutes, is amended to read:
38 6-901. Definitions

39 In this article, unless the context otherwise requires:

40 1. "Affiliate" means an entity which directly or indirectly, through
41 one or more intermediaries, controls, is controlled by or is under common
42 control with the entity specified.

43 2. "Compensation" means anything of value or any benefit, including
44 points, commissions, bonuses, referral fees, loan origination fees and other
45 similar fees but excluding periodic interest resulting from the application

1 of the note rate of interest to the outstanding principal balance remaining
2 unpaid from time to time.

3 3. "CONTINUING EDUCATION UNIT" MEANS A FIFTY MINUTE PERIOD OF TIME IN
4 A CONTINUING EDUCATION COURSE THAT RELATES TO THE MORTGAGE INDUSTRY OR TO
5 MORTGAGE TRANSACTIONS, INCLUDING COURSES TAKEN TO MAINTAIN RECOGNIZED
6 INDUSTRY DESIGNATIONS.

7 ~~3-~~ 4. "Investor" means a person who lends or invests money in
8 mortgage loans.

9 ~~4-~~ 5. "License" means a license issued under this article.

10 ~~5-~~ 6. "Licensee" means a person licensed under this article.

11 7. "LOAN ORIGINATOR" HAS THE SAME MEANING PRESCRIBED IN SECTION 6-991.

12 ~~6-~~ 8. "Mortgage broker" means a person who is not exempt under
13 section 6-902 and who for compensation or in the expectation of compensation
14 either directly or indirectly makes, negotiates or offers to make or
15 negotiate a mortgage loan.

16 ~~7-~~ 9. "Mortgage loan" means a loan secured by a mortgage or deed of
17 trust or any lien interest on real estate located in this state created with
18 the consent of the owner of the real estate.

19 ~~8-~~ 10. "Mortgage loan closing" means the day by which all documents
20 relating to the mortgage loan have been executed and recorded and all monies
21 have been accounted for under the terms of the escrow instructions.

22 Sec. 6. Section 6-903, Arizona Revised Statutes, is amended to read:

23 6-903. Licensing of mortgage brokers required; qualifications;
24 application; bond; fees; renewal

25 A. A person shall not act as a mortgage broker if ~~he~~ THE PERSON is not
26 licensed under this article.

27 B. The superintendent shall not grant a mortgage broker's license to a
28 person, other than a natural person, who is not registered to do business in
29 this state on the date of granting the license. An applicant for an original
30 mortgage broker's license shall:

31 1. Have not less than three years' experience as a mortgage broker,
32 or equivalent lending experience in a related business during the five years
33 immediately preceding the time of application.

34 2. Have satisfactorily completed a course of study approved by the
35 superintendent during the three years immediately preceding the time of
36 application.

37 3. Have passed a mortgage broker's test, pursuant to section 6-908,
38 not more than one year before the granting of the license.

39 C. A person shall make an application for a license or for a renewal
40 of a license in writing on the forms, in the manner and accompanied by the
41 information prescribed by the superintendent. The superintendent may require
42 additional information on the experience, background, honesty, truthfulness,
43 integrity and competency of the applicant and any responsible individual
44 designated by the applicant. If the applicant is a person other than a
45 natural person, the superintendent may require information as to the honesty,

1 truthfulness, integrity and competency of any officer, director, shareholder
2 or other interested party of the association, corporation or group.

3 D. The nonrefundable application fee and annual renewal fee are as
4 prescribed in section 6-126. The nonrefundable application fee shall
5 accompany each application for an original license only. The superintendent
6 shall deposit, pursuant to sections 35-146 and 35-147, the monies in the
7 state general fund.

8 E. If a licensee is a person other than a natural person, the license
9 issued to it entitles all officers, directors, members, partners, trustees
10 and employees of the licensed corporation, partnership, association or trust
11 to engage in the mortgage business if one officer, director, member, partner,
12 employee or trustee of the person is designated in the license as the
13 individual responsible for the person under this article. If a licensee is a
14 natural person, the license entitles all employees of the licensee to engage
15 in the mortgage business. If the natural person is not a resident of this
16 state, an employee of the licensee shall be designated in the license as the
17 individual responsible for the licensee under the provisions of this
18 article. For THE purposes of this subsection, an employee does not include
19 an independent contractor. A responsible individual shall be a resident of
20 this state, shall be in active management of the activities of the licensee
21 governed by this article and shall meet the qualifications set forth in
22 subsection B of this section for a licensee.

23 F. A licensee shall notify the superintendent that its responsible
24 individual will cease to be in active management of the activities of the
25 licensee within ten days of learning that fact. The licensee has ninety days
26 after the notification is received by the superintendent within which to
27 replace the responsible individual with a qualified replacement and to so
28 notify the superintendent. If the license is not placed under active
29 management of a qualified responsible individual and if notice is not given
30 to the superintendent within the ninety day period, the license of the
31 licensee expires.

32 G. Every person licensed as a mortgage broker shall deposit with the
33 superintendent, before doing business as a mortgage broker, a bond executed
34 by the licensee as principal and a surety company authorized to do business
35 in this state as surety. The bond shall be conditioned on the faithful
36 compliance of the licensee, including ~~his~~ THE LICENSEE'S directors, officers,
37 members, partners, trustees and employees, with this article. The bond is
38 payable to any person injured by the wrongful act, default, fraud or
39 misrepresentation of the licensee or ~~his~~ THE LICENSEE'S employees and to this
40 state for the benefit of the person injured. Only one bond is required for
41 any person, firm, association or corporation irrespective of the number of
42 officers, directors, members, partners or trustees who are employed by or are
43 members of such firm, association or corporation. No suit may be commenced
44 on the bond after the expiration of one year following the commission of the
45 act on which the suit is based, except that claims for fraud or mistake are

1 limited to the limitation period provided in section 12-543, paragraph 3. If
2 an injured person commences an action for a judgment to collect from the
3 bond, the injured person shall notify the superintendent of the action in
4 writing at the time of the commencement of the action and shall provide
5 copies of all documents relating to the action to the superintendent on
6 request.

7 H. The bond required by this section shall be ten thousand dollars for
8 licensees whose investors are limited solely to institutional investors, and
9 fifteen thousand dollars for licensees whose investors include any
10 noninstitutional investors.

11 I. For THE purposes of subsection H of this section:

12 1. "Institutional investor" means a state or national bank, a state or
13 federal savings and loan association, a state or federal savings bank, a
14 state or federal credit union, a federal government agency or
15 instrumentality, a quasi-federal government agency, a financial enterprise, a
16 licensed real estate broker or salesman, a profit sharing or pension trust,
17 or an insurance company.

18 2. "Investor" means any person who directly or indirectly provides
19 funds to a mortgage broker ~~which funds~~ THAT are, or are intended to be, used
20 in the making of a loan, and any person who purchases a loan, or any interest
21 therein, from a mortgage broker or in a transaction that has been directly or
22 indirectly arranged or negotiated by a mortgage broker.

23 J. Notwithstanding section 35-155, in lieu of the bond described in
24 this section, an applicant for a license or a licensee may deposit with the
25 superintendent a deposit in the form of cash or alternatives to cash in the
26 same amount as the bond required under subsection G of this section. The
27 superintendent may accept any of the following as an alternative to cash:

28 1. Certificates of deposits or investment certificates ~~which~~ THAT are
29 payable or assigned to the state treasurer, issued by banks or savings banks
30 doing business in this state and fully insured by the federal deposit
31 insurance corporation or any successor institution.

32 2. Certificates of deposit, investment certificates or share accounts
33 ~~which~~ THAT are payable or assigned to the state treasurer, issued by a
34 savings and loan association doing business in this state and fully insured
35 by the federal deposit insurance corporation or any successor institution.

36 3. Certificates of deposit, investment certificates or share accounts
37 ~~which~~ THAT are payable or assigned to the state treasurer, issued by a credit
38 union doing business in this state and fully insured by the national credit
39 union administration or any successor institution.

40 K. The superintendent shall deposit the cash or alternatives to cash
41 received under this section with the state treasurer. The state treasurer
42 shall hold the cash or alternatives to cash in the name of this state to
43 guarantee the faithful performance of all legal obligations of the person
44 required to post bond pursuant to this section. The person is entitled to
45 receive any accrued interest earned from the alternatives to cash. The state

1 treasurer may impose a fee to reimburse the state treasurer for
2 administrative expenses. The fee shall not exceed ten dollars for each cash
3 or alternatives to cash deposit and shall be paid by the applicant or
4 licensee. The state treasurer may prescribe rules relating to the terms and
5 conditions of each type of security provided by this section.

6 L. In addition to such other terms and conditions as the
7 superintendent prescribes by rule or order, the principal amount of the
8 deposit shall be released only on written authorization of the superintendent
9 or on the order of a court of competent jurisdiction. The principal amount
10 of the deposit shall not be released before the expiration of three years
11 from the first to occur of any of the following:

- 12 1. The date of substitution of a bond for a cash alternative.
- 13 2. The surrender of the license.
- 14 3. The revocation of the license.
- 15 4. The expiration of the license.

16 M. A licensee or an employee of the licensee shall not advertise for
17 or solicit mortgage business in any manner without using the name and license
18 number as issued on the mortgage broker's principal place of business
19 license, except that a licensee may employ or refer to the commonly used name
20 and any trademarks or service marks of any affiliate. If a license is issued
21 in the name of a natural person, nothing in the advertising or solicitation
22 may imply the license is in the name of another person or entity. For the
23 ~~purpose~~ PURPOSES of this subsection, "advertise" does not include business
24 cards, radio and television advertising directed at national or regional
25 markets and promotional items except if those items contain rates or terms on
26 which a mortgage loan may be obtained.

27 N. A licensee shall not employ any person unless the licensee:

- 28 1. Conducts a reasonable investigation of the background, honesty,
29 truthfulness, integrity and competency of the employee before hiring.
- 30 2. Keeps a record of the investigation for not less than two years
31 after termination.

32 O. A license is not transferable or assignable and control of a
33 licensee may not be acquired through a stock purchase or other device without
34 the prior written consent of the superintendent. Written consent shall not
35 be given if the superintendent finds that any of the grounds for denial,
36 revocation or suspension of a license as set forth in section 6-905 are
37 applicable to the acquiring person. For the ~~purpose~~ PURPOSES of this
38 subsection, "control" means the power to vote more than twenty per cent of
39 outstanding voting shares of a licensed corporation, partnership, association
40 or trust.

41 P. The licensee is liable for any damage caused by any of ~~his~~ THE
42 LICENSEE'S employees while acting as an employee of the licensee.

43 Q. A licensee shall comply with the requirements of section 6-114
44 relating to balloon payments.

1 R. The examination and course of study requirements of this section
2 shall be waived by the superintendent for any person applying for a license
3 who, within the six months immediately prior to the submission of the
4 application, has been a licensee or a responsible person pursuant to this
5 chapter.

6 S. IF THE APPLICANT FOR RENEWAL OF A MORTGAGE BROKER LICENSE IS A
7 NATURAL PERSON, THE APPLICANT SHALL HAVE SATISFACTORILY COMPLETED TWELVE
8 CONTINUING EDUCATION UNITS BEFORE SUBMITTING THE RENEWAL APPLICATION. IF THE
9 APPLICANT IS OTHER THAN A NATURAL PERSON, THE DESIGNATED RESPONSIBLE
10 INDIVIDUAL SHALL HAVE SATISFACTORILY COMPLETED TWELVE CONTINUING EDUCATION
11 UNITS BEFORE SUBMITTING THE RENEWAL APPLICATION.

12 T. A LICENSEE WHO EMPLOYS A LOAN ORIGINATOR SHALL COMPLY WITH SECTION
13 6-991.03.

14 Sec. 7. Section 6-909, Arizona Revised Statutes, is amended to read:
15 6-909. Prohibited acts

16 A. Except for employment verifications, verifications of mortgages and
17 loans, and deposit or account verifications, a person, in connection with or
18 incidental to the making of any mortgage loan, shall not induce, require or
19 permit any document to be signed by a party to the transaction if such
20 document contains any blank spaces to be filled in after it has been signed,
21 except that the party may specifically authorize the licensee or the escrow
22 agent handling the transaction, in writing, to complete certain blank spaces.

23 B. A person is not entitled to receive compensation in connection with
24 arranging for or negotiating a mortgage loan if such person is not licensed
25 pursuant to this article. A mortgage broker shall not pay compensation to,
26 contract with or employ as an independent contractor a person who is acting
27 as a mortgage broker or mortgage banker but who is not licensed under this
28 chapter.

29 C. A person engaged in the mortgage business shall not knowingly
30 advertise, display, distribute, broadcast or televise, or cause or permit to
31 be advertised, displayed, distributed, broadcast or televised, in any manner
32 whatever, any false, misleading or deceptive statement or representation with
33 regard to the rates, terms or conditions for a mortgage loan. The charges or
34 rates of charge, if stated, shall be set forth in such manner as to prevent
35 misunderstanding by prospective borrowers.

36 D. A mortgage broker shall not request or require a person seeking a
37 mortgage loan on real property designed principally for the occupancy of from
38 one to four families in an amount of two hundred thousand dollars or less to
39 enter into an agreement which prohibits the person from seeking the loan from
40 another source.

41 E. A mortgage broker shall not, except in good faith, delay or cause
42 delay in the closing of a loan that results in increased costs to a borrower.

43 F. A mortgage broker shall not record or cause to be recorded any
44 document which would give rise to liability under section 33-420.

1 G. A mortgage broker shall not, for compensation, either directly or
2 indirectly make or negotiate or offer to make or negotiate a loan that is
3 either:

- 4 1. Less than five thousand dollars.
- 5 2. Not secured by a mortgage or deed of trust or other lien interest
6 in real property.

7 H. A person who is employed by a licensee to act in the capacity of a
8 mortgage broker shall not be concurrently employed by any other licensee to
9 act as a mortgage broker, except with the prior written approval of all the
10 concurrently employing licensees.

11 I. A mortgage broker shall not collect compensation for rendering
12 services as a real estate broker or real estate salesman unless both of the
13 following apply:

- 14 1. The mortgage broker is licensed pursuant to title 32, chapter 20.
- 15 2. The mortgage broker has disclosed to the person from whom the
16 compensation is collected that the mortgage broker is receiving compensation
17 both for mortgage broker services, if applicable, and for real estate broker
18 or real estate salesman services.

19 J. A licensee shall not accept any assignment of the borrower's wages
20 or salary in connection with activities governed by this article.

21 K. A mortgage broker shall not receive or disburse monies in servicing
22 or arranging a mortgage loan except as provided in section 6-906, subsection
23 C.

24 L. A mortgage broker shall not make a false promise or
25 misrepresentation or conceal an essential or material fact in the course of
26 the mortgage broker business.

27 M. A mortgage broker shall not fail to truthfully account for the
28 monies belonging to a party to a mortgage loan transaction or fail to
29 disburse monies in accordance with his agreements.

30 N. A mortgage broker shall not engage in illegal or improper business
31 practices.

32 O. A mortgage broker shall not record a mortgage or deed of trust if
33 monies are not available for the immediate disbursement to the mortgagor unless,
34 before that recording, the mortgage broker informs the mortgagor in writing
35 of a definite date by which payment shall be made and obtains the mortgagor's
36 written permission for the delay.

37 P. A mortgage broker shall not require a person seeking a loan secured
38 by real property to obtain property insurance coverage in an amount that
39 exceeds the replacement cost of the improvements as established by the
40 property insurer.

41 Q. A MORTGAGE BROKER MUST REASONABLY SUPERVISE THE ACTIVITIES OF A
42 LOAN ORIGINATOR WHO IS LICENSED PURSUANT TO ARTICLE 4 OF THIS CHAPTER AND WHO
43 IS EMPLOYED BY THE MORTGAGE BROKER.

1 Sec. 8. Title 6, chapter 9, article 1, Arizona Revised Statutes, is
2 amended by adding section 6-911, to read:

3 6-911. Annual surcharge

4 THE SUPERINTENDENT MAY IMPOSE AN ANNUAL SURCHARGE ON THE RENEWAL OF
5 MORTGAGE BROKER LICENSES IN AN AMOUNT TO BE DETERMINED BY THE SUPERINTENDENT.
6 THE MONIES COLLECTED PURSUANT TO THIS SECTION SHALL BE DEPOSITED, PURSUANT TO
7 SECTIONS 35-146 AND 35-147, IN THE DEPARTMENT REVOLVING FUND ESTABLISHED BY
8 SECTION 6-135.

9 Sec. 9. Title 6, chapter 9, Arizona Revised Statutes, is amended by
10 adding article 4, to read:

11 ARTICLE 4. LOAN ORIGINATORS

12 6-991. Definitions

13 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

14 1. "ADMINISTRATIVE OR CLERICAL TASKS" MEANS THE RECEIPT, COLLECTION
15 AND DISTRIBUTION OF INFORMATION COMMON FOR THE PROCESSING OF A LOAN IN THE
16 MORTGAGE INDUSTRY AND COMMUNICATION WITH A BORROWER TO OBTAIN INFORMATION
17 NECESSARY FOR THE PROCESSING OF A LOAN. A PERSON WHO HOLDS HIMSELF OUT TO
18 THE PUBLIC AS ABLE TO OBTAIN A LOAN IS NOT PERFORMING ADMINISTRATIVE OR
19 CLERICAL TASKS.

20 2. "AFFILIATE" MEANS AN ENTITY THAT DIRECTLY OR INDIRECTLY, THROUGH
21 INTERMEDIARIES, CONTROLS, IS CONTROLLED BY OR IS UNDER COMMON CONTROL WITH
22 THE ENTITY SPECIFIED.

23 3. "CONTINUING EDUCATION UNIT" MEANS A FIFTY MINUTE PERIOD OF TIME IN
24 A CONTINUING EDUCATION COURSE THAT RELATES TO THE MORTGAGE INDUSTRY OR TO
25 MORTGAGE TRANSACTIONS, INCLUDING COURSES TAKEN TO MAINTAIN RECOGNIZED
26 INDUSTRY DESIGNATIONS.

27 4. "LICENSE" MEANS A LICENSE ISSUED UNDER THIS ARTICLE.

28 5. "LICENSEE" MEANS A PERSON LICENSED UNDER THIS ARTICLE.

29 6. "LOAN ORIGINATOR":

30 (a) MEANS A NATURAL PERSON WHO EITHER TAKES A RESIDENTIAL MORTGAGE
31 LOAN APPLICATION FOR A MORTGAGE BROKER TO OBTAIN A THIRD PARTY LENDER OR
32 OFFERS OR NEGOTIATES TERMS OF A MORTGAGE LOAN FOR DIRECT OR INDIRECT
33 COMPENSATION OR GAIN OR IN THE EXPECTATION OF DIRECT OR INDIRECT COMPENSATION
34 OR GAIN.

35 (b) INCLUDES A PERSON WHO HOLDS HIMSELF OUT TO THE PUBLIC AS ABLE TO
36 PERFORM ANY OF THESE ACTIVITIES.

37 (c) DOES NOT MEAN A PERSON PERFORMING PURELY ADMINISTRATIVE OR
38 CLERICAL TASKS FOR A MORTGAGE BROKER.

39 7. "MORTGAGE BROKER" MEANS A PERSON WHO IS LICENSED PURSUANT TO
40 ARTICLE 1 OF THIS CHAPTER.

41 8. "MORTGAGE LOAN" MEANS A LOAN SECURED BY A MORTGAGE OR DEED OF TRUST
42 OR ANY LIEN INTEREST ON REAL ESTATE LOCATED IN THIS STATE ESTABLISHED WITH
43 THE CONSENT OF THE OWNER OF THE REAL ESTATE.

1 6-991.01. Exemptions

2 THIS ARTICLE DOES NOT APPLY TO:

3 1. A NATURAL PERSON EMPLOYED BY A PERSON WHO DOES BUSINESS UNDER ANY
4 OTHER LAW OF THIS STATE OR LAW OF ANOTHER STATE WHILE REGULATED BY A STATE
5 AGENCY OF ANOTHER STATE OR THE UNITED STATES RELATING TO BANKS, SAVINGS
6 BANKS, TRUST COMPANIES, SAVINGS AND LOAN ASSOCIATIONS, PROFIT SHARING AND
7 PENSION TRUSTS, CREDIT UNIONS, INSURANCE COMPANIES OR CONSUMER LENDERS OR
8 RECEIVERSHIPS, INCLUDING DIRECTLY OR INDIRECTLY MAKING, NEGOTIATING OR
9 OFFERING TO MAKE OR NEGOTIATE A MORTGAGE LOAN, IF THE MORTGAGE TRANSACTIONS
10 ARE REGULATED BY THE OTHER LAW OR ARE UNDER THE JURISDICTION OF A COURT.
11 EMPLOYEES OF SUBSIDIARIES AND SERVICE CORPORATIONS OF THESE INSTITUTIONS
12 SHALL BE EXEMPT AND SHALL NOT BE SUBJECT TO THIS ARTICLE IF PREEMPTED BY
13 FEDERAL LAW.

14 2. A PERSON WHO IS LICENSED PURSUANT TO ARTICLE 1, 2 OR 3 OF THIS
15 CHAPTER.

16 3. A PERSON WHO IS A RESPONSIBLE INDIVIDUAL AS DESCRIBED IN SECTION
17 6-903 AND WHO DOES NOT ACT AS A LOAN ORIGINATOR PURSUANT TO ARTICLE 1, 2 OR 3
18 OF THIS CHAPTER.

19 4. AN EMPLOYEE OF A COMMERCIAL MORTGAGE BANKER LICENSED PURSUANT TO
20 ARTICLE 3 OF THIS CHAPTER.

21 5. AN EMPLOYEE OF A MORTGAGE BANKER LICENSED PURSUANT TO ARTICLE 2 OF
22 THIS CHAPTER, UNLESS THE EMPLOYEE ORIGINATES A RESIDENTIAL LOAN TO BE FUNDED
23 BY A LENDER THAT IS NOT THE EMPLOYER.

24 6. AN EMPLOYEE OF A PERSON LICENSED PURSUANT TO THIS CHAPTER IF THE
25 LICENSEE AFFIRMS IN WRITING TO THE SUPERINTENDENT THAT THE LICENSEE WILL NOT
26 MAKE OR NEGOTIATE A MORTGAGE LOAN THAT HAS SECURITY IN THE FORM OF A
27 RESIDENTIAL DWELLING OF ONE TO FOUR UNITS.

28 6-991.02. Prohibited acts

29 A. A LOAN ORIGINATOR ACTING ON THE LOAN ORIGINATOR'S OWN BEHALF SHALL
30 NOT ACCEPT ANY MONIES OR DOCUMENTS IN CONNECTION WITH AN APPLICATION FOR A
31 MORTGAGE LOAN.

32 B. A PERSON IS NOT ENTITLED TO RECEIVE COMPENSATION IN CONNECTION WITH
33 ARRANGING FOR OR NEGOTIATING A MORTGAGE LOAN IF THE PERSON IS NOT LICENSED
34 PURSUANT TO THIS CHAPTER. NOTWITHSTANDING SECTION 6-984, SUBSECTION B, A
35 LOAN ORIGINATOR SHALL NOT PAY COMPENSATION TO, CONTRACT WITH OR EMPLOY AS AN
36 INDEPENDENT CONTRACTOR A PERSON WHO IS ACTING AS A LOAN ORIGINATOR, MORTGAGE
37 BROKER, MORTGAGE BANKER OR COMMERCIAL MORTGAGE BANKER BUT WHO IS NOT LICENSED
38 UNDER THIS CHAPTER.

39 C. A LOAN ORIGINATOR ACTING ON THE LOAN ORIGINATOR'S OWN BEHALF SHALL
40 NOT ADVERTISE, DISPLAY, DISTRIBUTE, BROADCAST OR TELEVISION, OR CAUSE OR PERMIT
41 TO BE ADVERTISED, DISPLAYED, DISTRIBUTED, BROADCAST OR TELEVISION, IN ANY
42 MANNER, ANY SOLICITATION OF MORTGAGE BUSINESS.

43 D. A LOAN ORIGINATOR SHALL NOT MAKE, NEGOTIATE OR OFFER TO MAKE OR
44 NEGOTIATE FOR COMPENSATION, EITHER DIRECTLY OR INDIRECTLY, A LOAN THAT IS
45 EITHER:

- 1 1. LESS THAN FIVE THOUSAND DOLLARS.
- 2 2. NOT SECURED BY A MORTGAGE OR DEED OF TRUST OR OTHER LIEN INTEREST
- 3 IN REAL PROPERTY.
- 4 E. A LOAN ORIGINATOR WHO IS EMPLOYED BY A MORTGAGE BROKER TO ACT IN
- 5 THE CAPACITY OF THE MORTGAGE BROKER SHALL NOT BE CONCURRENTLY EMPLOYED BY ANY
- 6 OTHER MORTGAGE BROKER OR MORTGAGE BANKER.
- 7 F. A LOAN ORIGINATOR SHALL NOT COLLECT COMPENSATION FOR RENDERING
- 8 SERVICES AS A REAL ESTATE BROKER OR REAL ESTATE SALESPERSON LICENSED PURSUANT
- 9 TO TITLE 32, CHAPTER 20 UNLESS BOTH OF THE FOLLOWING APPLY:
- 10 1. THE LOAN ORIGINATOR IS LICENSED PURSUANT TO TITLE 32, CHAPTER 20.
- 11 2. THE EMPLOYING MORTGAGE BROKER HAS DISCLOSED TO THE PERSON FROM WHOM
- 12 THE COMPENSATION IS COLLECTED, BOTH AT THE TIME A LISTING AGREEMENT OR
- 13 RESIDENTIAL REAL PROPERTY PURCHASE OFFER IS MADE AND AT THE TIME A MORTGAGE
- 14 LOAN APPLICATION IS RECEIVED, THAT THE LOAN ORIGINATOR IS RECEIVING
- 15 COMPENSATION BOTH FOR MORTGAGE BROKER SERVICES, IF APPLICABLE, AND FOR REAL
- 16 ESTATE BROKER OR REAL ESTATE SALESPERSON SERVICES.
- 17 G. A LOAN ORIGINATOR SHALL NOT ACCEPT ANY ASSIGNMENT OF THE BORROWER'S
- 18 WAGES OR SALARY IN CONNECTION WITH ACTIVITIES GOVERNED BY THIS ARTICLE.
- 19 H. A LOAN ORIGINATOR SHALL NOT RECEIVE OR DISBURSE MONIES IN SERVICING
- 20 OR ARRANGING A MORTGAGE LOAN.
- 21 I. A LOAN ORIGINATOR SHALL NOT MAKE A FALSE PROMISE OR
- 22 MISREPRESENTATION OR CONCEAL AN ESSENTIAL OR MATERIAL FACT IN THE COURSE OF
- 23 THE MORTGAGE BROKER BUSINESS.
- 24 J. A LOAN ORIGINATOR SHALL NOT FAIL TO TRUTHFULLY ACCOUNT FOR THE
- 25 MONIES BELONGING TO A PARTY TO A MORTGAGE LOAN TRANSACTION OR FAIL TO
- 26 DISBURSE MONIES IN ACCORDANCE WITH THE EMPLOYING MORTGAGE BROKER AGREEMENTS.
- 27 K. A LOAN ORIGINATOR SHALL NOT ENGAGE IN ILLEGAL OR IMPROPER BUSINESS
- 28 PRACTICES.
- 29 L. A LOAN ORIGINATOR SHALL NOT REQUIRE A PERSON SEEKING A LOAN SECURED
- 30 BY REAL PROPERTY TO OBTAIN PROPERTY INSURANCE COVERAGE IN AN AMOUNT THAT
- 31 EXCEEDS THE REPLACEMENT COST OF THE IMPROVEMENTS AS ESTABLISHED BY THE
- 32 PROPERTY INSURER.
- 33 6-991.03. Licensing; renewal; qualifications; application; fees
- 34 A. BEGINNING JANUARY 1, 2009, A NATURAL PERSON SHALL NOT ACT AS A LOAN
- 35 ORIGINATOR UNLESS LICENSED UNDER THIS ARTICLE.
- 36 B. BEGINNING JANUARY 1, 2009, THE SUPERINTENDENT SHALL NOT GRANT A
- 37 LOAN ORIGINATOR LICENSE TO A PERSON, OTHER THAN A NATURAL PERSON. AN
- 38 APPLICANT FOR AN ORIGINAL LOAN ORIGINATOR'S LICENSE SHALL HAVE DONE BOTH OF
- 39 THE FOLLOWING:
- 40 1. SATISFACTORILY COMPLETED A COURSE OF STUDY FOR LOAN ORIGINATORS
- 41 APPROVED BY THE SUPERINTENDENT DURING THE ONE YEAR IMMEDIATELY PRECEDING THE
- 42 TIME OF APPLICATION.
- 43 2. PASSED A LOAN ORIGINATOR'S EXAMINATION, PURSUANT TO SECTION
- 44 6-991.07, NOT MORE THAN ONE YEAR BEFORE THE GRANTING OF THE LICENSE.

1 C. A PERSON SHALL MAKE AN APPLICATION FOR A LICENSE OR RENEWAL OF A
2 LICENSE IN WRITING IN THE MANNER PRESCRIBED BY THE SUPERINTENDENT AND
3 ACCOMPANIED BY THE INFORMATION PRESCRIBED BY THE SUPERINTENDENT. THE
4 SUPERINTENDENT MAY REQUIRE ADDITIONAL INFORMATION REGARDING THE EXPERIENCE,
5 BACKGROUND, HONESTY, TRUTHFULNESS, INTEGRITY AND COMPETENCY OF THE APPLICANT.

6 D. BEGINNING JANUARY 1, 2009, AN APPLICANT FOR RENEWAL OF A LOAN
7 ORIGINATOR LICENSE SHALL HAVE SATISFACTORILY COMPLETED SIX CONTINUING
8 EDUCATION UNITS BEFORE SUBMITTING THE RENEWAL APPLICATION.

9 E. THE NONREFUNDABLE APPLICATION FEE, DETERMINED BY THE SUPERINTENDENT
10 PURSUANT TO SECTION 6-126, SHALL ACCOMPANY EACH APPLICATION FOR AN ORIGINAL
11 LOAN ORIGINATOR LICENSE ONLY. THE SUPERINTENDENT SHALL DEPOSIT, PURSUANT TO
12 SECTIONS 35-146 AND 35-147, THESE FEES IN THE DEPARTMENT REVOLVING FUND
13 ESTABLISHED BY SECTION 6-135.

14 F. A LOAN ORIGINATOR SHALL NOT ADVERTISE FOR OR SOLICIT MORTGAGE
15 BUSINESS IN ANY MANNER WITHOUT USING THE NAME AND LICENSE NUMBER AS ISSUED ON
16 THE EMPLOYING MORTGAGE BROKER'S PRINCIPAL PLACE OF BUSINESS LICENSE AND
17 WITHOUT THE APPROVAL OF THE EMPLOYING MORTGAGE BROKER.

18 G. A LICENSE IS NOT TRANSFERABLE OR ASSIGNABLE.

19 H. THE EXAMINATION AND COURSE OF STUDY REQUIREMENTS OF THIS SECTION
20 MAY BE WAIVED BY THE SUPERINTENDENT FOR ANY PERSON APPLYING FOR A LOAN
21 ORIGINATOR LICENSE WHO, WITHIN THE SIX MONTHS IMMEDIATELY BEFORE SUBMITTING
22 THE APPLICATION, HAS BEEN A MORTGAGE BROKER OR MORTGAGE BANKER LICENSEE
23 PURSUANT TO THIS CHAPTER FOR AT LEAST THREE YEARS.

24 6-991.04. Issuance of license; renewal; inactive status;
25 application; fee

26 A. THE SUPERINTENDENT, ON DETERMINING THAT AN APPLICANT IS QUALIFIED
27 AND HAS PAID THE REQUIRED FEES, SHALL ISSUE A LOAN ORIGINATOR'S LICENSE TO
28 THE APPLICANT EVIDENCED BY A CONTINUOUS CERTIFICATE. THE SUPERINTENDENT
29 SHALL GRANT OR DENY A LICENSE WITHIN ONE HUNDRED TWENTY DAYS AFTER RECEIVING
30 THE COMPLETED APPLICATION AND FEES. AN APPLICANT WHO HAS BEEN DENIED A
31 LICENSE MAY NOT REAPPLY FOR A LICENSE BEFORE ONE YEAR FROM THE DATE OF THE
32 PREVIOUS APPLICATION.

33 B. ON ISSUANCE OF THE LICENSE, THE SUPERINTENDENT SHALL KEEP THE LOAN
34 ORIGINATOR'S LICENSE UNTIL A MORTGAGE BROKER LICENSED PURSUANT TO THIS
35 CHAPTER EMPLOYS THE LOAN ORIGINATOR AND THE EMPLOYER PROVIDES A WRITTEN
36 NOTICE THAT THE EMPLOYER HAS HIRED THE LOAN ORIGINATOR. THE EMPLOYER SHALL
37 PROVIDE THE NOTICE BEFORE THE LOAN ORIGINATOR BEGINS WORKING FOR THE
38 EMPLOYER. THE NOTICE SHALL BE FROM AN OFFICER OR OTHER PERSON AUTHORIZED BY
39 THE EMPLOYER. THE NOTICE SHALL CONTAIN A REQUEST FOR THE LOAN ORIGINATOR'S
40 LICENSE AND SHALL BE DATED, SIGNED AND NOTARIZED. ON RECEIPT OF THE REQUEST,
41 THE SUPERINTENDENT SHALL FORWARD THE LOAN ORIGINATOR'S LICENSE TO THE
42 EMPLOYING MORTGAGE BROKER.

43 C. LICENSES SHALL BE ISSUED FOR A ONE YEAR PERIOD.

1 D. A LOAN ORIGINATOR SHALL MAKE APPLICATION FOR RENEWAL ON FORMS
2 PRESCRIBED BY THE SUPERINTENDENT. THE APPLICATION SHALL INCLUDE ORIGINAL
3 CERTIFICATES EVIDENCING THE LOAN ORIGINATOR'S SUCCESSFUL COMPLETION OF SIX
4 CONTINUING EDUCATION UNITS FOR A ONE YEAR PERIOD.

5 E. A LOAN ORIGINATOR SHALL PAY THE RENEWAL FEE DETERMINED BY THE
6 SUPERINTENDENT PURSUANT TO SECTION 6-126 EVERY YEAR ON OR BEFORE DECEMBER 31.
7 THE SUPERINTENDENT SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147,
8 THESE FEES IN THE DEPARTMENT REVOLVING FUND ESTABLISHED BY SECTION 6-135.
9 LICENSES NOT RENEWED BY DECEMBER 31 ARE SUSPENDED AND THE LICENSEE SHALL NOT
10 ACT AS A LOAN ORIGINATOR UNTIL THE LICENSE IS RENEWED OR A NEW LICENSE IS
11 ISSUED PURSUANT TO THIS ARTICLE. A PERSON MAY RENEW A SUSPENDED LICENSE BY
12 DOING BOTH OF THE FOLLOWING:

13 1. PAYING THE RENEWAL FEE PLUS A DOLLAR AMOUNT TO BE DETERMINED BY THE
14 SUPERINTENDENT FOR EACH DAY AFTER DECEMBER 31 THAT A LICENSE RENEWAL FEE IS
15 NOT RECEIVED BY THE SUPERINTENDENT.

16 2. APPLYING FOR RENEWAL AS PRESCRIBED BY THE SUPERINTENDENT.

17 F. LICENSES THAT ARE NOT RENEWED BY JANUARY 31 OF EACH YEAR EXPIRE. A
18 LICENSE SHALL NOT BE GRANTED TO THE HOLDER OF AN EXPIRED LICENSE EXCEPT AS
19 PROVIDED IN THIS ARTICLE FOR THE ISSUANCE OF AN ORIGINAL LICENSE.

20 G. FROM DECEMBER 1 THROUGH DECEMBER 31 OF EACH RENEWAL PERIOD, A
21 LICENSEE MAY REQUEST INACTIVE STATUS FOR THE FOLLOWING LICENSE PERIOD. THE
22 LICENSE SHALL BE PLACED ON INACTIVE STATUS AFTER THE LICENSEE PAYS TO THE
23 SUPERINTENDENT THE INACTIVE STATUS RENEWAL FEE DETERMINED BY THE
24 SUPERINTENDENT PURSUANT TO SECTION 6-126 AND SURRENDERS THE LICENSE TO THE
25 SUPERINTENDENT. DURING INACTIVE STATUS, AN INACTIVE LICENSEE SHALL NOT ACT
26 AS A LOAN ORIGINATOR. A LICENSEE MAY NOT BE ON INACTIVE STATUS FOR MORE THAN
27 TWO CONSECUTIVE RENEWAL PERIODS IN ANY TEN YEAR PERIOD. THE LICENSE EXPIRES
28 IF THE LICENSEE VIOLATES THIS SUBSECTION.

29 H. AT RENEWAL TIME AN INACTIVE LICENSEE MAY RETURN TO ACTIVE STATUS BY
30 DOING ALL OF THE FOLLOWING:

31 1. PROVIDING THE SUPERINTENDENT WITH EVIDENCE THAT THE LICENSEE HAS
32 MET THE REQUIREMENTS OF SECTION 6-991.02, SUBSECTION B.

33 2. MAKING A WRITTEN REQUEST TO THE SUPERINTENDENT FOR REACTIVATION.

34 3. PAYING THE ANNUAL LICENSING FEE.

35 4. PROVIDING THE SUPERINTENDENT WITH PROOF THAT THE LICENSEE MEETS ALL
36 OTHER REQUIREMENTS FOR ACTING AS A LOAN ORIGINATOR.

37 I. THE EMPLOYING MORTGAGE BROKER SHALL KEEP AND MAINTAIN AT THE
38 PRINCIPAL PLACE OF BUSINESS IN THIS STATE THE LOAN ORIGINATOR'S LICENSE
39 DURING THE LOAN ORIGINATOR'S EMPLOYMENT. A COPY OF THE LOAN ORIGINATOR'S
40 LICENSE SHALL BE AVAILABLE FOR PUBLIC INSPECTION DURING REGULAR BUSINESS
41 HOURS.

42 J. A LOAN ORIGINATOR SHALL IMMEDIATELY NOTIFY THE SUPERINTENDENT OF A
43 CHANGE IN THE LOAN ORIGINATOR'S RESIDENCE ADDRESS. THE SUPERINTENDENT SHALL
44 ENDORSE THE CHANGE OF ADDRESS ON THE LICENSE FOR A FEE TO BE DETERMINED BY
45 THE SUPERINTENDENT.

1 K. WITHIN FIVE BUSINESS DAYS AFTER ANY LICENSEE'S EMPLOYMENT
2 TERMINATION, THE EMPLOYING MORTGAGE BROKER SHALL DO BOTH OF THE FOLLOWING:
3 1. NOTIFY THE SUPERINTENDENT OF THE LICENSEE'S TERMINATION.
4 2. RETURN THE LICENSE TO THE LICENSEE.
5 6-991.05. Denial, suspension or revocation of licenses
6 A. THE SUPERINTENDENT MAY DENY A LICENSE TO A PERSON OR SUSPEND OR
7 REVOKE A LICENSE IF THE SUPERINTENDENT FINDS THAT AN APPLICANT OR LICENSEE:
8 1. IS NOT A PERSON OF HONESTY, TRUTHFULNESS OR GOOD CHARACTER.
9 2. HAS VIOLATED ANY LAW, RULE OR ORDER.
10 3. REFUSES OR FAILS, WITHIN A REASONABLE TIME, TO FURNISH ANY
11 INFORMATION OR PROVIDE ANY DOCUMENTATION THAT THE SUPERINTENDENT REQUIRES.
12 4. HAS BEEN CONVICTED IN ANY STATE OF A FELONY OR ANY CRIME OF BREACH
13 OF TRUST OR DISHONESTY.
14 5. HAS HAD A FINAL JUDGMENT ENTERED AGAINST THE APPLICANT OR LICENSEE
15 IN A CIVIL ACTION ON GROUNDS OF FRAUD, DECEIT OR MISREPRESENTATION, AND THE
16 CONDUCT ON WHICH THE JUDGMENT IS BASED INDICATES THAT IT WOULD BE CONTRARY TO
17 THE INTEREST OF THE PUBLIC TO PERMIT THE PERSON TO BE LICENSED.
18 6. HAS HAD AN ADMINISTRATIVE AGENCY OF THIS STATE, THE FEDERAL
19 GOVERNMENT OR ANY OTHER STATE OR TERRITORY OF THE UNITED STATES ENTER AN
20 ORDER AGAINST THE APPLICANT OR LICENSEE INVOLVING FRAUD, DECEIT OR
21 MISREPRESENTATION, AND THE FACTS RELATING TO THE ORDER INDICATE THAT IT WOULD
22 BE CONTRARY TO THE INTEREST OF THE PUBLIC TO PERMIT THE PERSON TO BE
23 LICENSED.
24 7. HAS MADE A MATERIAL MISSTATEMENT OR SUPPRESSED OR WITHHELD
25 INFORMATION ON THE APPLICATION FOR A LICENSE OR ANY DOCUMENT REQUIRED TO BE
26 FILED WITH THE SUPERINTENDENT.
27 B. IF A LICENSEE OR A PERSON WHO APPLIED FOR A LICENSE UNDER THIS
28 ARTICLE IS INDICTED OR INFORMED AGAINST FOR FORGERY, EMBEZZLEMENT, OBTAINING
29 MONEY UNDER FALSE PRETENSES, EXTORTION, CRIMINAL CONSPIRACY TO DEFRAUD OR A
30 SIMILAR OFFENSE, AND A CERTIFIED COPY OF THE INDICTMENT OR INFORMATION OR
31 OTHER PROPER EVIDENCE OF THE INDICTMENT OR INFORMATION IS FILED WITH THE
32 SUPERINTENDENT, THE SUPERINTENDENT MAY SUSPEND THE LICENSE OR REFUSE TO GRANT
33 A LICENSE TO AN APPLICANT PENDING TRIAL ON THE INDICTMENT.
34 6-991.06. Loan originator examination committee; membership
35 A. THE SUPERINTENDENT SHALL ESTABLISH A LOAN ORIGINATOR EXAMINATION
36 COMMITTEE TO ESTABLISH AND PERIODICALLY UPDATE STANDARDS FOR PASSING AN
37 EXAMINATION FOR LOAN ORIGINATORS.
38 B. THE COMMITTEE SHALL CONSIST OF FIVE MEMBERS WHO ARE APPOINTED BY
39 THE SUPERINTENDENT. THE MEMBERS SHALL SERVE STAGGERED TWO YEAR TERMS. FOUR
40 OF THE MEMBERS SHALL BE MORTGAGE BROKER LICENSEES AND SHALL BE APPOINTED FROM
41 NOMINATIONS SUBMITTED BY MORTGAGE BROKER LICENSEES. ONE OF THE MEMBERS SHALL
42 BE AN EMPLOYEE OF THE DEPARTMENT. THE COMMITTEE SHALL ELECT A CHAIRPERSON.
43 C. LICENSEES WHO SERVE AS MEMBERS OF THE COMMITTEE SHALL NOT RECEIVE
44 COMPENSATION.

1 6-991.07. Examination; fee; definition

2 A. EACH APPLICANT FOR AN ORIGINAL LOAN ORIGINATOR LICENSE, BEFORE
3 ISSUANCE OF THE LICENSE, SHALL TAKE AND PASS AN EXAMINATION GIVEN UNDER THE
4 SUPERVISION OF THE DEPARTMENT. THE EXAMINATION MUST REASONABLY EXAMINE THE
5 APPLICANT'S KNOWLEDGE OF ALL OF THE FOLLOWING:

- 6 1. THE OBLIGATIONS BETWEEN PRINCIPAL AND AGENT.
7 2. THE APPLICABLE CANONS OF BUSINESS ETHICS.
8 3. THIS ARTICLE AND THE RULES ADOPTED UNDER THIS ARTICLE.
9 4. THE ARITHMETICAL COMPUTATIONS COMMON TO MORTGAGE BROKERAGE.
10 5. THE PRINCIPLES OF REAL ESTATE LENDING.
11 6. THE GENERAL PURPOSES AND LEGAL EFFECT OF MORTGAGES, DEEDS OF TRUST
12 AND SECURITY AGREEMENTS.

13 7. THE TERMS AND CONDITIONS OF CONFORMING AND NONCONFORMING
14 RESIDENTIAL MORTGAGE PRODUCTS.

15 B. THE EXAMINATION IS SUBJECT TO THE SUPERINTENDENT'S APPROVAL.

16 C. THE DEPARTMENT SHALL SUPERVISE THE ADMINISTRATION OF THE
17 EXAMINATION TO APPLICANTS FOR LICENSES AT LEAST ONCE EVERY SIX MONTHS. THE
18 DEPARTMENT SHALL REASONABLY PRESCRIBE THE TIME, PLACE AND CONDUCT OF
19 EXAMINATIONS AND COLLECT A FEE FOR ADMINISTRATION OF THE EXAMINATION TO BE
20 ASSESSED TO ALL PERSONS TAKING THE EXAMINATION. THE TEST MAY BE GIVEN IN
21 EITHER WRITTEN OR ELECTRONIC FORMAT.

22 D. AN APPLICANT MAY NOT TAKE THE EXAMINATION MORE THAN TWO TIMES
23 WITHIN A TWELVE MONTH PERIOD.

24 E. ALL EXAMINATIONS SHALL BE GIVEN, CONDUCTED AND GRADED IN A FAIR AND
25 IMPARTIAL MANNER AND WITHOUT UNFAIR DISCRIMINATION BETWEEN INDIVIDUALS
26 EXAMINED. THE COMMITTEE SHALL INFORM THE APPLICANT OF THE RESULT OF THE
27 EXAMINATION WITHIN THIRTY DAYS OF THE EXAMINATION.

28 F. THE SUPERINTENDENT SHALL DETERMINE THE FEE FOR EACH EXAMINATION.
29 THE SUPERINTENDENT SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147,
30 THESE FEES IN THE DEPARTMENT REVOLVING FUND ESTABLISHED BY SECTION 6-135.

31 G. FOR THE PURPOSES OF THIS SECTION, "APPLICANT" MEANS A PERSON WHO
32 HAS SUBMITTED A COMPLETED APPLICATION IN THE FORM PRESCRIBED BY THE
33 SUPERINTENDENT.

34 6-991.08. Noncompliance not to affect validity of loan

35 FAILURE TO COMPLY WITH THIS ARTICLE DOES NOT AFFECT THE VALIDITY OR
36 ENFORCEABILITY OF ANY DEBT, MORTGAGE, DEED OF TRUST OR ANY OTHER LIEN
37 INTEREST ON REAL ESTATE. A PERSON ACQUIRING A MORTGAGE LOAN OR ANY INTEREST
38 IN A MORTGAGE LOAN AS MORTGAGEE OR BENEFICIARY OR AS AN ASSIGNEE, HOLDER OR
39 TRANSFEREE OR AS A PLEDGEE OR THE HOLDER OF A SECURITY INTEREST IS NOT
40 REQUIRED TO ASCERTAIN WHETHER A VIOLATION OF THIS ARTICLE HAS OCCURRED.

41 Sec. 10. Delayed repeal

42 Section 6-911, Arizona Revised Statutes, as added by this act, is
43 repealed from and after June 30, 2009.

