

CHAPTER 19
MORTGAGE LOAN ORIGINATORS

Chapter exempt from chapter rescission pursuant to Iowa Code section 17A.7

187—19.1(17A,535D) Definitions. For the purposes of this chapter, the definitions in Iowa Code section 535D.3 shall apply. In addition, unless the context otherwise requires, the following definitions shall apply to this chapter and to Iowa Code chapter 535D:

“*Licensee*” means a person who has a license to operate as a mortgage loan originator in accordance with the provisions of Iowa Code section 535D.4.

“*Nationwide multistate licensing system*” or “*NMLS*” means a multistate 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 mortgage loan originators, mortgage providers, mortgage lenders, mortgage brokers, and mortgage servicers.

“*SAFE mortgage loan originator test*” means the licensing test approved by the NMLS in accordance with the provisions of Iowa Code section 535D.8.

“*Servicer*” means a person that collects or receives payments, including principal, interest and trust items such as hazard insurance, property taxes and other amounts due, on behalf of a note holder or investor in accordance with the terms of a residential mortgage loan.

“*Superintendent*” means the superintendent of banking appointed pursuant to Iowa Code section 524.201.

“*Takes a residential mortgage loan application,*” with respect to Iowa Code section 535D.3(8), means:

1. Any communication, regardless of form, from a mortgage loan originator to a borrower soliciting a loan application or requesting information typically required in an application for the purpose of deciding whether or not to extend the requested offer of a loan to a borrower; or
2. Any communication, regardless of form, from a borrower to a mortgage loan originator for an offer or responding to a solicitation for an offer of residential mortgage loan terms or providing information typically required in an application for the purpose of deciding whether or not to extend the requested offer of a loan to a borrower.

[ARC 8239B, IAB 10/21/09, effective 11/25/09; ARC 3081C, IAB 5/24/17, effective 7/1/17]

187—19.2(17A,535D) Mortgage loan originator requirements.

19.2(1) A natural person who applies for a license pursuant to Iowa Code section 535D.4 to act as a mortgage loan originator in this state shall apply with the superintendent through the NMLS. The superintendent may consider an application withdrawn if it does not contain all of the information required and the information is not submitted to the superintendent within 30 days after the superintendent requests the information.

19.2(2) Prior to applying for a mortgage loan originator license, the applicant must complete the preclicensing education requirements pursuant to Iowa Code section 535D.7.

19.2(3) Prior to applying for a mortgage loan originator license, the applicant must pass the SAFE mortgage loan originator test, which is comprised of two components: a national component and a state component. Applicants must pass each component with a score of 75 percent or higher.

19.2(4) The fee for an initial mortgage loan originator application is \$50. This fee is nonrefundable. This fee is in addition to any fees established and charged by the NMLS, any approved education course provider, any approved education testing provider, any law enforcement agency for fingerprints and background checks, or by any credit reporting agency used by the NMLS.

19.2(5) An applicant must provide fingerprints, authorize a fingerprint background check through NMLS, and pay the appropriate fees for the purpose of conducting a national criminal history background check through the Federal Bureau of Investigation. This requirement applies to all individuals, regardless of whether the applicant was previously registered under Iowa Code chapter 535B or if the applicant has previously submitted fingerprint cards for licensure.

19.2(6) Each applicant must provide authorization to obtain a credit report through NMLS.

19.2(7) To engage in activities requiring a license, a mortgage loan originator must be covered under a surety bond that reflects the dollar amount of loans originated, processed, or underwritten, as the case may be, on an annual basis. The bond must be on a form provided by the superintendent. Satisfaction of this requirement shall be met by one of the following:

a. A mortgage loan originator who is an employee or exclusive agent of a company subject to Iowa Code chapter 535B, 536, or 536A may be covered by the company's bond.

b. A mortgage loan originator who is not covered by a company bond pursuant to paragraph 19.2(7) "a" must provide an individual surety bond meeting the requirements of paragraph 19.2(7) "c."

c. The surety bond amount required to be filed and maintained by or on behalf of a mortgage loan originator who is not an employee or exclusive agent of a company subject to Iowa Code chapter 535B, 536, or 536A shall be set and adjusted annually as necessary in accordance with the following scale, based on the volume of residential mortgage loans originated, processed, and underwritten, as the case may be, by the licensee during the preceding calendar year:

<u>Loans</u>	<u>Bond Amount</u>
\$0 – \$5,000,000	\$25,000
\$5,000,001 – \$20,000,000	\$50,000
\$20,000,001 – \$50,000,000	\$75,000
\$50,000,001 – \$100,000,000	\$100,000
Over \$100,000,000	\$150,000

19.2(8) To engage in activities requiring a license, a mortgage loan originator must be employed by, under contract with, or an exclusive agent of a licensed company or a company that is exempt from licensing requirements. However, the superintendent may consider an application for mortgage loan originator from a person not currently employed by, under contract with, or an exclusive agent of a licensee. If the superintendent determines that the applicant is otherwise eligible for a mortgage loan originator license, the superintendent shall approve the license in "active-inactive" status or similar status type indicating that the applicant has met the individual requirements for licensure but is not authorized to conduct business.

19.2(9) A mortgage loan originator license expires on the next December 31 after issuance; however, mortgage loan originator licenses issued on or after November 1 but before January 1 will not expire until December 31 of the following year. For example, a mortgage loan originator license issued on November 17, 2009, would not expire until December 31, 2010.

19.2(10) An individual who has completed 20 hours of prelicensure education pursuant to 12 U.S.C. 5104(c) must retake 20 hours of prelicensure education in order to be eligible for mortgage loan originator licensure if the individual:

a. Fails to acquire a valid state license or federal registration as a mortgage loan originator within three years from the date of federal compliance with 12 U.S.C. 5104(c); or

b. Fails to acquire a valid state license or federal registration as a mortgage loan originator within three years from the last date of licensure or registration as a mortgage loan originator.

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187—19.3(17A,535D) Grounds for denial of license.

19.3(1) The superintendent shall deny an application for a mortgage loan originator license if the applicant does not meet the qualifications outlined in Iowa Code section 535D.6. For the purpose of applying Iowa Code section 535D.6(2), "dishonesty or breach of trust" includes, but is not limited to, forgery, embezzlement, obtaining money under false pretenses, theft, extortion, fraud, conspiracy to defraud, tax evasion, or another similar offense.

19.3(2) The superintendent may deny an application for a mortgage loan originator license for any of the following reasons:

a. This state or another state or jurisdiction has denied, suspended, or refused to renew the applicant's license to act as a mortgage loan originator or has denied, suspended, or refused to renew a similar license or registration under this state's or the other state's or jurisdiction's law. An agreement made between a

person and this state or another state or jurisdiction not to operate as a mortgage loan originator shall be considered a denial of that person's license to act as a mortgage loan originator in that state.

b. The applicant has been barred, removed, or prohibited from serving in any capacity in a financial institution by any state or federal regulatory agency, including but not limited to the Office of Comptroller of the Currency, the Federal Deposit Insurance Corporation (FDIC), the Board of Governors of the Federal Reserve System, or the U.S. Department of Housing and Urban Development.

c. The applicant has been convicted of forgery, embezzlement, obtaining money under false pretenses, theft, extortion, conspiracy to defraud, tax evasion, or another similar offense, in a court of competent jurisdiction in this state or in any other state, territory or district of the United States, or in any foreign jurisdiction. For the purposes of this paragraph, "convicted of" includes a guilty plea, deferred judgment, deferred sentence, or other similar finding of guilt by a court of competent jurisdiction.

d. The applicant has had a professional license of any kind revoked in any state or jurisdiction. An agreement to surrender a license and not to operate in an occupation in which a professional license is required shall be considered a revocation for the purposes of this rule.

e. The applicant is under 18 years of age.

f. The applicant has made a false statement of material fact on an application for a license or has been otherwise implicated in the submission of a false application.

g. The applicant has demonstrated a lack of moral character in a manner that the superintendent reasonably believes will impair the applicant's ability to act as a mortgage loan originator in full compliance with the public interest and state policies described in Iowa Code chapters 535B and 535D.

h. The applicant has failed to pay child support and is identified in a certificate of noncompliance from the child support recovery unit of the department of human services according to the procedures in Iowa Code chapter 252J.

i. The applicant has failed to pay state debt and is identified in a certificate of noncompliance from the department of revenue according to the procedures set forth in Iowa Code chapter 272D.

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187—19.4(17A,535D) Renewal of mortgage loan originator license.

19.4(1) A mortgage loan originator license must be renewed before expiration. An individual who fails to renew a mortgage loan originator license before expiration is not authorized to act as a mortgage loan originator in Iowa after the expiration date.

19.4(2) By December 1 of the year of expiration, a mortgage loan originator license shall be renewed through the NMLS, with all requested information provided as directed by the NMLS, and must be accompanied by a fee of \$50. This fee is nonrefundable. This fee is in addition to any fees established and charged by the NMLS, any approved education course provider, any approved education testing provider, any law enforcement agency for fingerprints and background checks, or by any credit reporting agency used by the NMLS. The superintendent may assess a late fee of \$5 per day not to exceed \$100 for a mortgage loan originator license renewal accepted for processing after December 1.

19.4(3) The superintendent may reject a mortgage loan originator license renewal if the license renewal is not complete or if all required fees, including late fees, are not remitted.

19.4(4) The superintendent shall grant an application to renew a mortgage loan originator license if the licensee meets the standards for renewal in Iowa Code section 535D.9 and:

a. The superintendent receives the renewal application by December 1, accompanied by the \$50 renewal fee, or the superintendent receives the license renewal after December 1 but before January 1 and it is accompanied by the renewal fee and the appropriate late fee;

b. The renewal application is fully completed with all necessary information, including proper disclosure of completion of required continuing education; and

c. The renewal application does not reveal grounds to deny the mortgage loan originator license.

[ARC 8239B, IAB 10/21/09, effective 11/25/09; ARC 3081C, IAB 5/24/17, effective 7/1/17]

187—19.5(17A,535D) Reinstatement of license.

19.5(1) The license of a mortgage loan originator that expires for failure to satisfy the minimum standards for renewal may be reinstated if the licensee meets the following requirements:

a. The application for reinstatement is submitted between January 1 and February 28 of the year immediately following the year the license expired.

b. All continuing education courses and any other minimum requirements for license renewal for the year in which the license expired are completed prior to submission of the application for reinstatement.

c. The licensee pays a reinstatement fee of \$50, in addition to the renewal fee, and any late charges.

19.5(2) A mortgage loan originator whose license has expired and who fails to meet the requirements for reinstatement specified in this rule must apply for a new license and meet the requirements in effect at that time.

[ARC 8239B, IAB 10/21/09, effective 11/25/09; ARC 3081C, IAB 5/24/17, effective 7/1/17]

187—19.6(17A,535D) Notice of significant events. A licensee shall notify the superintendent through the NMLS within ten days of the occurrence of any of the following events.

19.6(1) The licensee files for bankruptcy protection.

19.6(2) A prosecuting authority files criminal charges against the licensee.

19.6(3) Another state or jurisdiction institutes license denial, cease and desist, suspension or revocation procedures, or other formal or informal regulatory action against the licensee.

19.6(4) The attorney general of Iowa, the Federal Trade Commission, or the enforcer of the consumer protection laws of any other jurisdiction initiates an action to enforce consumer protection laws against the licensee.

19.6(5) The Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Housing Administration, or Government National Mortgage Association suspends or terminates the licensee's status as an approved loan originator.

19.6(6) The licensee ceases engaging in activities requiring a license and wishes to surrender the licensee's license. Although the licensee has surrendered the licensee's license, the superintendent retains jurisdiction over the licensee's activities during the time the individual was licensed.

19.6(7) A change is made in the licensee's name.

[ARC 8239B, IAB 10/21/09, effective 11/25/09; ARC 3081C, IAB 5/24/17, effective 7/1/17]

187—19.7(17A,535D) Annual report. On or before March 31 of each year, each mortgage loan originator who as of the preceding December 31 was not employed by or an exclusive agent of a company licensed under Iowa Code chapter 535B, 536, or 536A shall file an annual report with the superintendent stating the amount of residential mortgage loans originated, processed, or underwritten, as the case may be, during the preceding calendar year.

[ARC 8239B, IAB 10/21/09, effective 11/25/09; ARC 3081C, IAB 5/24/17, effective 7/1/17]

187—19.8(17A,535D) Administrative fees.

19.8(1) *Investigation or examination fees.* A licensee shall pay an investigation or examination fee as determined by the superintendent based on the actual cost of the operation of the finance bureau of the banking division as described in Iowa Code section 535D.11(2).

19.8(2) *Investigation or examination late fees.* A licensee shall pay the superintendent the total charge for an investigation or examination within 30 days after the superintendent has requested payment. If a licensee fails to pay an investigation or examination fee by the due date, the superintendent may assess an additional penalty of 5 percent of the amount of the fee for each day after the due date.

19.8(3) *Late fees for failing to respond.* In the process of administering this chapter, the superintendent may require a person to provide responses to formal orders, examinations, or complaint inquiries. If a person fails to respond within 30 days of the request, the superintendent may assess a penalty of \$10 per day after the initial 30 days.

19.8(4) *Required annual report.* A licensee who fails to file with the superintendent the annual report required under rule 187—19.7(17A,535D) by March 31 of each year shall be subject to a late penalty of \$10 for each day the annual report is delinquent, but in no event shall the aggregate of late penalties exceed

§300. The superintendent may relieve any licensee from the payment of any penalty, in whole or in part, for good cause.

19.8(5) *NMLS system processing fees.* In addition to the fees set forth in this chapter, the applicant or licensee shall pay any fee assessed by the NMLS attributed to the licensee's record in the NMLS, including but not limited to the initial set-up fee, an annual processing fee, and a loan sponsorship transfer fee.

[ARC 8239B, IAB 10/21/09, effective 11/25/09; ARC 3081C, IAB 5/24/17, effective 7/1/17]

187—19.9(17A,535D) Continuing education.

19.9(1) A licensee applying to renew a mortgage loan originator license shall, during the license term preceding renewal, complete at least eight hours of continuing education or prelicensing education.

19.9(2) Each continuing education course shall first be approved by the NMLS before the superintendent grants continuing education credit.

19.9(3) Continuing education courses shall focus on issues of the mortgage business or related industry topics.

19.9(4) The entity providing the continuing education course shall submit to the NMLS evidence of the licensee's satisfactory completion of approved continuing education.

19.9(5) Continuing education hours shall not be carried forward from one year to the next.

19.9(6) Each mortgage loan originator shall ultimately be responsible for maintaining verification records in the form of completion certificates or other documents providing evidence of satisfactory completion of approved continuing education courses. The mortgage loan originator shall retain documentation for a period of three years after the effective date of the mortgage loan originator license renewal. The superintendent may conduct random audits to verify the continuing education submitted to the NMLS.

19.9(7) Failure to provide requested evidence of completion of claimed continuing education within 30 days of the written notice from the superintendent shall result in the mortgage loan originator license being placed in inactive status. Prior to the superintendent's activating a mortgage loan originator license that has been placed on inactive status pursuant to this rule, the mortgage loan originator must submit to the superintendent satisfactory evidence that all required continuing education has been completed.

19.9(8) The requirement for completion of continuing education may be waived or the deadline for completion may be extended by the superintendent under either of the following circumstances:

a. The mortgage loan originator is called to active duty in the armed forces of the United States for a period of time exceeding 120 consecutive days in any continuing education year.

b. The mortgage loan originator experiences physical disability, illness, or any extenuating circumstances that prevent successful completion of continuing education.

[ARC 8239B, IAB 10/21/09, effective 11/25/09; ARC 3081C, IAB 5/24/17, effective 7/1/17]

187—19.10(17A,535D) Independent contractor—loan processor or underwriter.

19.10(1) For the purpose of Iowa Code section 535D.4, "a loan processor or underwriter who is an independent contractor" means any person who processes or underwrites residential mortgage loans and is not a W-2 employee of a company licensed under Iowa Code chapter 535B, 536, or 536A.

19.10(2) An independent contractor must meet all the licensure requirements found in rule 187—19.2(17A,535D) with the exception of subrule 19.2(8).

19.10(3) An independent contractor must meet the surety bond requirements found in subrule 19.2(7) prior to the issuance of a license.

[ARC 8239B, IAB 10/21/09, effective 11/25/09; ARC 3081C, IAB 5/24/17, effective 7/1/17]

187—19.11(17A,535D) NMLS information challenge process. A mortgage loan originator may challenge information entered into the NMLS by the superintendent by filing a dispute with the superintendent outlining the grounds for the dispute. The grounds for the dispute shall be limited to a review of the factual accuracy of the information regarding the mortgage loan originator's own license record submitted to the NMLS by the superintendent. A mortgage loan originator may not file a dispute in order to protest a disciplinary action taken by the superintendent or to appeal the underlying reasons for the disciplinary action. The superintendent shall conduct a paper review of the dispute and determine whether

the information submitted to the NMLS was factually correct. The superintendent shall notify the mortgage loan originator of the determination within 60 days of the receipt of the dispute. If the superintendent determines the information submitted to the NMLS is factually incorrect, the superintendent shall take prompt steps to correct the information submitted.

[ARC 8239B, IAB 10/21/09, effective 11/25/09; ARC 3081C, IAB 5/24/17, effective 7/1/17]

187—19.12(17A,535D) Disciplinary action.

19.12(1) The superintendent has authority, pursuant to Iowa Code chapters 535D and 17A, to impose discipline for violations of Iowa Code chapter 535D and the rules promulgated thereunder.

19.12(2) Grounds for discipline. The superintendent may impose any of the disciplinary sanctions set out in Iowa Code section 535D.13 when the superintendent finds any of the following:

a. The licensee has violated a provision of Iowa Code chapter 535D or a rule adopted thereunder or any other state or federal law applicable to the conduct of mortgage loan originators, including but not limited to Iowa Code chapters 535 and 535A.

b. A fact or condition exists which, had it existed at the time of the original application for the license, would have warranted the superintendent to refuse to issue the original license.

c. The licensee fails at any time to meet the requirements of Iowa Code section 535D.6 or 535D.9 or withholds information or makes a material misstatement in an application for a license or the renewal of a license.

d. The licensee has violated an order of the superintendent.

e. The licensee fails to fully cooperate with an examination or investigation, including failure to respond to a superintendent inquiry within 30 days of the date of mailing a written communication directed to the licensee's last-known address on file with the superintendent.

f. The licensee has engaged in any conduct that subverts or attempts to subvert an examination or investigation by the superintendent.

g. The licensee continues to operate as a mortgage loan originator without an active and current license.

h. The licensee continues to act as a mortgage loan originator without first satisfying the required continuing education, absent an express waiver granted by the superintendent.

i. The licensee has submitted a false report of continuing education.

j. The licensee fails to notify the superintendent within ten days of the occurrence of one of the significant events set forth in rule 187—19.6(17A,535D).

k. Another state or jurisdiction has denied, suspended, revoked, or refused to renew the licensee's license, registration, or authorization to act as a mortgage loan originator under the other state's or jurisdiction's law.

l. The licensee fails to create and maintain complete and accurate records as required by state or federal law, regulation, or rule.

19.12(3) A licensee may surrender a license by delivering to the superintendent a written notice of surrender.

[ARC 8239B, IAB 10/21/09, effective 11/25/09; ARC 3081C, IAB 5/24/17, effective 7/1/17]

Rules 187—19.1(17A,535D) to 187—19.12(17A,535D) are intended to implement Iowa Code chapters 17A and 535D.

187—19.13(17A,252J) Nonpayment of child support. The superintendent shall deny the issuance or renewal of a mortgage loan originator license upon the receipt of a certificate of noncompliance from the child support recovery unit of the department of human services according to the procedures in Iowa Code chapter 252J. In addition to the procedures set forth in Iowa Code chapter 252J, this rule shall apply.

19.13(1) The notice required by Iowa Code section 252J.8 shall be served upon the mortgage loan originator or applicant by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the mortgage loan originator or applicant may accept service personally or through authorized counsel.

19.13(2) The effective date of the denial of the issuance or renewal of a mortgage loan originator license, as specified in the notice required by Iowa Code section 252J.8, shall be 60 days following service of the notice upon the mortgage loan originator or applicant.

19.13(3) The superintendent is authorized to prepare and serve the notice required by Iowa Code section 252J.8 upon the mortgage loan originator or applicant.

19.13(4) Mortgage loan originators and applicants shall keep the superintendent informed of all court actions and all child support recovery unit actions taken under or in connection with Iowa Code chapter 252J and shall provide the superintendent copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 252J.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

19.13(5) All superintendent fees for application or license renewal or reinstatement must be paid by mortgage loan originators or applicants, and all continuing education requirements must be met before a mortgage loan originator license will be issued, renewed or reinstated after the superintendent has denied the issuance or renewal of a mortgage loan originator license pursuant to Iowa Code chapter 252J.

19.13(6) In the event an applicant or a mortgage loan originator timely files a district court action following service of a superintendent notice pursuant to Iowa Code sections 252J.8 and 252J.9, the superintendent shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the superintendent to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of a mortgage loan originator license, the superintendent shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

19.13(7) The superintendent shall notify the mortgage loan originator or applicant in writing through regular first-class mail, or such other means as the superintendent deems appropriate in the circumstances, within ten days of the effective date of the denial of the issuance or renewal of a mortgage loan originator license, and shall similarly notify the mortgage loan originator or applicant when the license is issued or renewed following the superintendent's receipt of a withdrawal of the certificate of noncompliance.

This rule is intended to implement Iowa Code chapters 252J and 17A.

[ARC 8239B, IAB 10/21/09, effective 11/25/09]

187—19.14(17A,261) Nonpayment of student loan. Rescinded ARC 5091C, IAB 7/15/20, effective 8/19/20.

[ARC 8239B, IAB 10/21/09, effective 11/25/09]

187—19.15(17A,272D) Nonpayment of state debt. The superintendent shall deny the issuance or renewal of a mortgage loan originator license upon the receipt of a certificate of noncompliance from the centralized collection unit of the department of revenue according to the procedures in Iowa Code chapter 272D. In addition to the procedures set forth in Iowa Code chapter 272D, this rule shall apply.

19.15(1) The notice required by Iowa Code section 272D.8 shall be served on the mortgage loan originator or applicant by restricted certified mail, return receipt requested, or personal service in accordance with the Iowa Rules of Civil Procedure. Alternatively, the mortgage loan originator or applicant may accept service personally or through authorized counsel.

19.15(2) The effective date of the denial of issuance or renewal of a license, as specified in the notice required by Iowa Code section 272D.8, shall be 60 days following service of the notice upon the mortgage loan originator or applicant.

19.15(3) The superintendent is authorized to prepare and serve the notice required by Iowa Code section 272D.8 upon the mortgage loan originator or applicant.

19.15(4) Mortgage loan originators and applicants shall keep the superintendent informed of all court actions and all centralized collection unit actions taken under or in connection with Iowa Code chapter 272D and shall provide the superintendent copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 272D.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the centralized collection unit.

19.15(5) All fees for applications, license renewals or reinstatements must be paid by mortgage loan originators or applicants, and all continuing education requirements must be met before a mortgage loan

originator license will be issued, renewed or reinstated after the superintendent has denied the issuance or renewal of a mortgage loan originator license pursuant to Iowa Code chapter 272D.

This rule is intended to implement Iowa Code chapters 272D and 17A.

[ARC 8239B, IAB 10/21/09, effective 11/25/09]

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