

CHAPTER 18
MORTGAGE BANKERS AND MORTGAGE BROKERS

187—18.1(17A,535B) Definitions. For the purposes of this chapter, the definitions in Iowa Code chapter 535B shall apply. In addition, unless the context otherwise requires:

“*Criminal background check*” means a state criminal background check and a national criminal history check through the Federal Bureau of Investigation.

“*Individual registrant*” means a natural person who is registered with the administrator in accordance with the provisions of Iowa Code section 535B.4A.

“*Individual registration*” means an electronic registration submitted by a natural person to the administrator to act as a mortgage banker or mortgage broker in this state in accordance with the provisions of Iowa Code section 535B.4A. To be considered active, an individual registrant must be an employee of or an exclusive agent of a licensee.

“*License application*” means an electronic application submitted to the administrator for a license to operate as a mortgage banker or mortgage broker in accordance with the provisions of Iowa Code section 535B.4.

“*Licensee*” means a person who has a license to operate as a mortgage banker or mortgage broker in accordance with the provisions of Iowa Code section 535B.4.

“*Makes at least four mortgage loans,*” as used in Iowa Code section 535B.1(4) “a,” means the person is listed on loan documents as the lender for at least four mortgage loans.

“*Mortgage application*” means an oral or written request for an extension of credit that is made in accordance with procedures established by a creditor for the type of credit requested. A completed application has all the information that the creditor regularly obtains and considers in evaluating an application for the amount and type of credit requested.

“*Nationwide mortgage licensing system and registry*” or “*NMLS&R*” means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of mortgage loan originators, mortgage providers, mortgage lenders, mortgage brokers, and mortgage servicers.

“*Services a loan*” or “*servicing a loan*” means undertaking the direct collection of payments on a loan from the borrower or the right to undertake direct collection of payments on a loan from the borrower.

187—18.2(17A,535B) Application for license.

18.2(1) Application for a license to operate as a mortgage banker or mortgage broker shall be on forms provided by the administrator, and all requested information shall be provided on or with the application form. The administrator may consider an application or registration withdrawn if it does not contain all of the information required and the information is not submitted to the administrator within 30 days after the administrator requests the information.

18.2(2) The license application shall be accompanied by a fee of \$500 plus \$40 per additional branch location. The \$500 fee is not subject to refund.

18.2(3) If any information changes after the filing of the initial application, the applicant shall provide updated information to the administrator in writing within 10 calendar days of the change. Failure to provide updated information when a change has occurred may result in denial of the application.

18.2(4) The administrator shall approve or deny a license application in accordance with the provisions of Iowa Code section 535B.5. A person shall not be eligible for licensing unless all individual registrants who are employed by, under contract with, or exclusive agents of the person have successfully completed the registration and background checks required by Iowa Code section 535B.4A.

18.2(5) Licenses expire on the next December 31 after issuance. However, licenses granted on or after November 1 but before January 1 will not expire until December 31 of the following year. For example, a license granted on November 17, 2008, would not expire until December 31, 2009.

187—18.3(17A,535B) Renewal of license.

18.3(1) To remain authorized to act as a mortgage banker or mortgage broker, a licensee must renew a license before the expiration date of the license. A licensee who fails to renew a license before expiration is not authorized to act as a mortgage banker or mortgage broker in Iowa after the expiration date.

18.3(2) Application to renew a license shall be submitted to the administrator before December 1 of the year of expiration through the NMLS&R. All requested information shall be provided to the administrator as directed by the NMLS&R. Applications for renewal of a license to transact business solely as a mortgage broker must be accompanied by a fee of \$200. Applications for renewal of a license to transact business as a mortgage banker must be accompanied by a fee of \$400. In addition, the licensee shall pay a branch office renewal fee of \$40 per branch. The administrator may assess late fees of up to \$10 per day for applications submitted after December 1.

18.3(3) The administrator shall grant an application to renew a license if:

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

b. The application is fully completed with all necessary information; and

c. The application does not reveal grounds to deny a license.

18.3(4) A renewal application received by the administrator after December 31 may, at the discretion of the administrator, be rejected for processing or may be treated as a new application for a license. A licensee who fails to renew a license before the expiration date is not authorized to act as a mortgage banker or mortgage broker in Iowa after the expiration date.

187—18.4(17A,535B) Individual registration requirements.

18.4(1) A natural person who applies for individual registration pursuant to Iowa Code section 535B.4A to act as a mortgage banker or mortgage broker in this state shall apply with the administrator on forms provided by the administrator. The administrator may consider an application withdrawn if it does not contain all of the information required and the information is not submitted to the administrator within 30 days after the administrator requests the information.

18.4(2) Prior to applying for an individual registration, an applicant must complete, within the 30 months immediately preceding the date of application, at least 20 hours of education approved by the administrator or the NMLS&R, which shall include at least:

a. Three hours of federal law and regulations;

b. Three hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues; and

c. Two hours of training related to lending standards for the nontraditional mortgage product marketplace.

18.4(3) Prior to applying for an individual registration, an applicant must pass a written test designated by the administrator. Initially, the administrator shall negotiate an agreement with a testing service relating to examination development and administration. Once a nationwide test is available, the qualified written test (developed by the NMLS&R and administered by a provider approved by the NMLS&R, in accordance with the standards established under Public Law 110-289, Title V, the S.A.F.E. Mortgage Licensing Act) shall become the designated test. An applicant must achieve a test score of not less than 75 percent correct answers to questions to pass the designated test. An applicant shall register and pay examination fees directly to the testing service. An applicant is also advised that if the applicant takes and passes an examination designated by the administrator before the qualified written test developed by the NMLS&R becomes available, the applicant may be required to take and pass the NMLS&R test at some point in the future to become licensed under the S.A.F.E. Mortgage Licensing Act.

18.4(4) The fee for an initial individual registration is \$50, plus the actual cost of obtaining the criminal background check. The fee is not subject to refund.

18.4(5) An applicant must submit to a criminal background check.

18.4(6) The administrator may deny an application for individual registration for any of the following reasons:

a. This state or another state or jurisdiction has denied, suspended, revoked, or refused to renew the applicant's authorization to act as a mortgage banker or mortgage broker or has denied, suspended, revoked 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 banker or mortgage broker shall be considered a denial of that person's authorization to act as a mortgage banker or mortgage broker 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 Office of Thrift Supervision, 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 a felony in a domestic, foreign, or military court during the seven-year period preceding the date of the application for individual registration; or at any time preceding such date of application if such felony involved an act of fraud, dishonesty, a breach of trust, or money laundering. 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 been convicted of forgery, embezzlement, obtaining money under false pretenses, theft, extortion, conspiracy to defraud, 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.

e. 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.

f. The applicant is under 18 years of age.

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

h. The applicant has demonstrated a lack of moral character in a manner that the administrator reasonably believes will impair the applicant's ability to act as a mortgage banker or mortgage broker in full compliance with the public interest and state policies described in Iowa Code chapter 535B.

i. 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.

j. The applicant has failed to pay student loans and is identified in a certificate of noncompliance from the college student aid commission according to the procedures set forth in Iowa Code chapter 261.

k. 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 2008 Iowa Acts, Senate File 2428.

18.4(7) As required by Iowa Code section 535B.4A, an individual registrant must be employed by, under contract with, or an exclusive agent of a licensee under Iowa Code section 535B.4. However, the administrator may consider an application for individual registration from a person not currently employed by, under contract with, or an exclusive agent of a licensee. If the administrator determines that the applicant is otherwise eligible for individual registration, the administrator shall approve the registration in "unattached" status.

18.4(8) An individual registration expires on the next December 31 after approval. However, individual registrations approved on or after November 1 but before January 1 will not expire until December 31 of the following year. For example, an application for individual registration approved on November 17, 2008, would not expire until December 31, 2009.

18.4(9) The administrator may issue a temporary individual registration for a period not to exceed 180 days to an applicant who has submitted to a national criminal history check as required by Iowa Code section 535B.4A, pending the results of the national criminal history check. The temporary individual

registration issued pursuant to this subrule is subject to the expiration and renewal requirements of subrule 18.4(8) and rule 187—18.5(17A,535B). If compliant with the aforementioned expiration and renewal requirements, the temporary individual registration issued pursuant to this subrule is valid until such time as the individual registration is issued, the temporary individual registration is renewed, or the temporary individual registration expires or is revoked. The administrator may revoke the temporary individual registration at any time prior to issuing an individual registration if the results of the national criminal history check reveal information that would be grounds for the administrator to deny an application for an individual registration or if an applicant fails to resubmit to the national criminal history check within 30 days of notice from the administrator to do so.

187—18.5(17A,535B) Renewal of individual registration.

18.5(1) The individual registration must be renewed before expiration. An individual who fails to renew an individual registration before expiration is not authorized to act as a mortgage banker or mortgage broker in Iowa after the expiration date.

18.5(2) Before December 1 of the year of expiration, an individual registration shall be renewed through the NMLS&R, with all requested information provided as directed by the NMLS&R, and must be accompanied by a fee of \$50. The administrator may assess a late fee of \$5 per day, not to exceed \$100, for an individual registration renewal accepted for processing after December 1.

18.5(3) The administrator may reject an individual registration renewal if the registration renewal is not complete or all required fees, including late fees, are not remitted.

18.5(4) The administrator shall grant an application to renew an individual registration if:

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

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

c. The registration renewal does not reveal grounds to deny an individual registration.

18.5(5) A registration renewal received by the administrator after December 31 may, at the discretion of the administrator, be rejected for processing or may be treated as a new individual registration. An individual registrant who fails to renew before the expiration date is not authorized to act as a mortgage banker or mortgage broker in Iowa after the expiration date unless specific written permission is provided by the administrator.

187—18.6(17A,535B) Unattached status of individual registrant.

18.6(1) An individual registration shall be considered to be in unattached status at any time an individual registrant is not employed by, under contract with, or an exclusive agent of a licensee.

18.6(2) Unattached status commences when the licensee or the individual registrant notifies the administrator in writing that an individual registrant ceases to be employed by, under contract with, or an exclusive agent of that licensee and will continue until such time that the administrator receives written verification from a licensee that the individual registrant is currently employed by, under contract with, or is an exclusive agent of the licensee.

18.6(3) An individual registrant in unattached status must comply with all the requirements applicable to individual registrants, such as timely submission of the individual registration renewal form and completion of the continuing education requirements.

18.6(4) An individual registrant in unattached status shall not be authorized to act as a mortgage banker or mortgage broker in Iowa unless the individual registrant is employed by, under contract with, or an exclusive agent of persons listed as exemptions pursuant to Iowa Code section 535B.2.

187—18.7(17A,535B) Notice of significant events. A licensee or individual registrant shall notify the administrator immediately and in writing within three business days of the occurrence of any of the following events.

18.7(1) The licensee or any of the licensee's officers, directors, principal stockholders, or affiliates file for bankruptcy protection.

18.7(2) A prosecuting authority files criminal charges against the licensee, the individual registrant or any of a licensee's officers, directors, principal stockholders, or affiliates.

18.7(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, individual registrant, or any of the licensee's officers, directors, principal stockholders, or affiliates.

18.7(4) The attorney general of Iowa or enforcer of the consumer protection laws of any other jurisdiction initiates an action to enforce consumer protection laws against the licensee, individual registrant, or any of the licensee's officers, directors, principal stockholders, or affiliates.

18.7(5) The Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, or Government National Mortgage Association suspends or terminates the licensee's or individual registrant's status as an approved seller or seller/servicer.

187—18.8(17A,535B) Changes in the licensee's business; fees.

18.8(1) No licensee or individual registrant shall conduct the residential mortgage lending activities authorized in Iowa Code chapter 535B under any name other than that stated on the license or individual registration certificate.

18.8(2) A licensee shall notify the administrator of a change of name of the business in writing within ten days of the change. A filing fee of \$25 shall accompany a notice of change of name, in addition to all other information required by the administrator.

18.8(3) An individual registrant shall notify the administrator in writing within ten days of a change in the individual registrant's name.

18.8(4) A licensee shall notify the administrator in writing of a change in the location, the addition, or the closing of any office prior to the change, addition, or closure.

18.8(5) A licensee shall maintain on file with the administrator, through the NMLS&R, a list of all individual registrants who are employed by, under contract with, or exclusive agents of the licensee. The licensee shall pay a change in sponsorship fee of \$30 to add an individual registrant to the licensee's list in the NMLS&R.

18.8(6) When an individual registrant ceases to be employed by, under contract with, or an exclusive agent of a licensee, the licensee shall notify the administrator, through the NMLS&R, within five business days. The notification shall include the reasons for the termination of the individual registrant's employment, contract, or agency.

18.8(7) A licensee shall notify the administrator in writing of the addition of any individual registrant, owner, officer, partner, or director within five business days of addition.

18.8(8) Failure to notify the administrator within the prescribed time as required by this rule may subject the licensee or individual registrant to disciplinary action.

187—18.9(17A,535B) Administrative fees.

18.9(1) *Examination and investigation late fees.* A licensee shall pay the administrator the total charge for an examination or investigation within 30 days after the administrator has requested payment. If a licensee fails to pay an examination or investigation fee by the due date, the administrator may assess an additional penalty of 5 percent of the amount of the fee for each day after the due date.

18.9(2) *Late fees for failing to respond.* In the process of administrating this chapter, the administrator 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 administrator may assess a penalty of \$10 per day after the initial 30 days.

18.9(3) *License determination letters.* A person who requests written confirmation from the administrator that a license is not required shall submit a fee of \$100 with the written request.

18.9(4) *Required financial statements.* A licensee who fails to file with the administrator the financial statements required under Iowa Code section 535B.10(1) within 120 days after the end of a licensee's fiscal year shall be subject to a late penalty of \$100 for each day the financial statements are delinquent,

but in no event shall the aggregate of late penalties exceed \$5,000. The administrator may relieve any licensee from the payment of any penalty, in whole or in part, for good cause.

18.9(5) Duplicate license. The licensee shall pay a fee of \$25 for each duplicate of an original license issued.

187—18.10(17A,535B) Continuing education.

18.10(1) The continuing education year shall begin on the first day of November each year and shall end on October 31 the following year. Each person who is an individual registrant on June 30 shall complete at least 12 hours of continuing education from November 1 (preceding June 30) to October 31 (following June 30). For example, a person who is an individual registrant on June 30, 2009, shall complete at least 12 hours of continuing education from November 1, 2008, to October 31, 2009. Due to the change in the licensing year, a person who was an individual registrant on June 30, 2008, has from May 1, 2007, to October 31, 2008, to complete at least 12 hours of continuing education.

18.10(2) Each continuing education course shall first be approved by the administrator before the administrator grants continuing education credit.

18.10(3) Continuing education courses shall focus on issues of the mortgage business or related industry topics.

18.10(4) One continuing education hour shall consist of at least 50 minutes of approved instruction. Time used to test a student is also considered time of instruction.

18.10(5) The entity providing the continuing education course shall submit to the administrator evidence of satisfactory completion of approved continuing education. This evidence shall include the name, home address, and individual registration number of each individual registrant completing the course.

18.10(6) Continuing education hours shall not be carried forward from one year to the next.

18.10(7) Continuing education hours will not be approved for any individual registrant for the same course in consecutive renewal periods.

18.10(8) Each individual registrant 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. Each individual registrant shall provide with that person's individual registration renewal a report in the format provided by the administrator of the courses completed to fulfill the continuing education requirement. The individual registrant shall retain documentation for a period of three years after the effective date of the registration renewal. The administrator may conduct random audits to verify the continuing education submitted by individual registrants.

18.10(9) Failure to provide requested evidence of completion of claimed continuing education within 30 days of the written notice from the administrator shall result in the individual registrant's being placed on lapsed status. Prior to the administrator's activating an individual registration that has been placed on lapsed status pursuant to this rule, the individual registrant must submit to the administrator satisfactory evidence that all required continuing education has been completed.

18.10(10) Each individual registrant who fails to renew shall complete all delinquent continuing education before being approved as an individual registrant, unless the new individual registration is issued after one year from the lapse of the prior registration.

18.10(11) The requirement for completion of continuing education may be waived, or the deadline for completion may be extended, by the administrator under either of the following circumstances:

a. The individual registrant 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 individual registrant experiences physical disability, illness, or any extenuating circumstances that prevent successful completion of continuing education.

187—18.11(17A,535B) Administrative requirements for courses.

18.11(1) All courses of continuing education must receive advance approval of the administrator.

18.11(2) Applications to provide continuing education must be submitted on forms provided by the administrator with a \$100 fee. Courses will be approved for 24-month periods, including the month of approval. Approval must be obtained for each course.

18.11(3) Each application for approval shall designate an individual as the coordinator who shall be the primary contact with the administrator. The coordinator is responsible for complying with the administrator's rules relating to providers and for submitting reports and information as may be required by the administrator.

18.11(4) Providers must submit the course outline and all required forms to the administrator.

18.11(5) Potential participants in approved courses shall be clearly informed of the hours to be credited, policies concerning registration, payment of fees, refunds, and attendance requirements.

18.11(6) No part of any approved course shall be used to advertise or solicit orally or in writing any product or service.

18.11(7) The provider must show that procedures are in place to ensure that the student who completes an approved course is the student who enrolled in the course.

18.11(8) The administrator may at any time reevaluate an approved course and may withdraw approval after a 30-day notice to the provider.

18.11(9) No approved provider shall provide any information to the public or to prospective students that is misleading in nature.

18.11(10) Each approved provider shall establish and maintain for each individual student a complete, accurate, and detailed record of instruction undertaken and satisfactorily completed in the areas of study prescribed by these rules. The records shall be maintained for a period of not less than five years. The administrator shall assign a number to each approved provider and shall assign a number to each approved course. The provider shall include these reference numbers in correspondence with the administrator and must include these numbers on certificates of attendance issued to course participants.

18.11(11) Each provider of an approved course shall provide an individual certificate of completion to each individual registrant within 30 days of satisfactory completion of the course. The certificate shall be no larger than 8½" × 11" and shall contain the following information:

- a. Provider name and number;
- b. Program, course or activity name and number;
- c. Name, home address, and individual registration number of the individual registrant;
- d. Date program, course or activity completed;
- e. Number of approved credit hours; and
- f. Signature of coordinator or other person authorized by the administrator.

187—18.12(17A,535B) Standards for approval of courses of instruction. The administrator may approve live classroom instruction, distance education programs, and paper home-study courses, subject to the following conditions:

1. The course pertains to mortgage topics that are integrally related to the mortgage industry; and
2. The course allows the participants to achieve a high level of competence in serving the objectives of consumers who engage the services of licensees; and
3. The course qualifies for at least two credit hours; and
4. The course has an appropriate means of written evaluation by the participants. Evaluations shall include but not be limited to relevance of the material, effectiveness of the presentation, and course content; and
5. The course meets the more specific standards according to the presentation method detailed in rules 187—18.13(17A,535B) through 187—18.15(17A,535B).

187—18.13(17A,535B) Standards for approval of live classroom courses. The administrator may approve live classroom courses, subject to the following requirements:

18.13(1) The course application shall be accompanied by a comprehensive course outline that may include:

- a. Description of course.

- b.* Purpose of course.
- c.* Level of difficulty.
- d.* Detailed learning objectives for each major topic that specify the level of knowledge or competency the student should demonstrate upon completing the course.
- e.* Description of the instructional methods utilized to accomplish the learning objectives.
- f.* Copies of all instructor and student course materials.
- g.* Description of the plan in place to periodically review course material with regard to changing federal and state statutes.

18.13(2) The provider must agree to provide a certificate of completion only to individual registrants who have satisfactorily completed the course. “Satisfactorily completed the course” means the individual was present for at least 80 percent of instruction time.

187—18.14(17A,535B) Standards for approval of distance education courses. The administrator may approve distance education courses, subject to the following requirements:

18.14(1) The provider’s purpose or mission statement must be available to the public.

18.14(2) The course outline must include clearly stated learning objectives and desired student competencies for each module of instruction and a description of how the program promotes interaction between the learner and the program.

18.14(3) The course content must be accurate and up-to-date. The provider must describe the plan in place to periodically review course material with regard to changing federal and state statutes.

18.14(4) The course must be designed to ensure that student progress is evaluated at appropriate intervals and that mastery of the material is achieved before a student can progress through the course material.

18.14(5) The provider must show that qualified individuals are involved in the design of the course.

18.14(6) The provider must list individuals who provide technical support to students and state the specific times when support is available.

18.14(7) A manual must be provided to each registered student. The manual shall include, but not be limited to, faculty contact information, student assignments and course requirements, broadcast schedules, testing information, passing scores, resource information, fee schedule, and return policy.

18.14(8) The provider must retain a statement signed by the student that affirms that the student completed the required work and examinations.

18.14(9) The provider must state in the course material that the information presented in the course should not be used as a substitute for competent legal advice.

18.14(10) Courses submitted for approval must be sufficient in scope and content to justify the hours requested by the provider.

18.14(11) All distance education courses must be completed within eight months of the date of acquisition or course start date.

18.14(12) The provider must agree to provide a certificate of completion only to individual registrants who have satisfactorily completed the course. “Satisfactorily completed the course” means the individual completed the required work and scored 70 percent or better cumulatively for all examinations covering the coursework.

187—18.15(17A,535B) Standards for approval of paper home-study courses. The administrator may approve paper home-study courses, subject to the following requirements:

18.15(1) Courses must be arranged in chapter format and include a table of contents.

18.15(2) Overview statements that preview the content of the chapter must be included for each chapter.

18.15(3) Courses must be designed to ensure that student progress is evaluated at appropriate intervals. The assessment process shall measure at regular intervals throughout each module of the course what each student has learned and not learned. The student must complete and return quizzes to the provider to receive credit for the course.

18.15(4) Final examinations must contain a minimum of 10 questions per credit hour; for example, 20 questions for a two-hour course, 30 questions for a three-hour course, and 60 questions for a six-hour course.

18.15(5) A passing score of 70 percent is required for course credit to be granted. There is no limit to the number of times a final examination may be taken to achieve a passing score.

18.15(6) An individual registrant has eight months from the date of purchase to complete all quizzes and assignments and to pass the final examination.

18.15(7) The provider must include information that clearly informs the student of the course completion deadline, passing score required, quiz completion requirements, and any other relevant information regarding the course.

18.15(8) The provider shall state in the course materials that the information presented in the course should not be used as a substitute for competent legal advice.

18.15(9) The provider shall retain a statement signed by the student that affirms that the student completed the required work and examinations.

18.15(10) The provider must be available to answer student questions and provide assistance as necessary during normal business hours.

18.15(11) Courses submitted for approval must be sufficient in scope and content to justify the hours requested by the provider.

18.15(12) The provider must agree to provide a certificate of completion only to individual registrants who have satisfactorily completed the course. "Satisfactorily completed the course" means the individual completed the required work and scored 70 percent or better on the final examination.

187—18.16(17A,535B) Licensee records.

18.16(1) *General record requirements.* A licensee must keep records that allow the administrator to determine the licensee's compliance with relevant statutes and regulations.

- a. The licensee may keep the records as a hard copy or in an electronic equivalent.
- b. The licensee shall keep records for at least 25 months from the date of the final transaction with the borrower.
- c. The licensee shall maintain all books and records in good order and shall produce books and records for the administrator upon request. Failure to produce such books and records within 30 days of the administrator's request may be grounds for disciplinary action against the licensee.

18.16(2) *Required records.*

- a. A mortgage broker shall keep an index, application log, and application files.
- b. A mortgage banker shall keep an index, application log, application files, loan register, and loan files. If the mortgage banker also services loans, the mortgage banker must also keep account ledgers.
- c. A mortgage banker who only services loans needs to keep only an index, a loan register, loan files, and account ledgers.

18.16(3) *Index.* All records shall be accessible by the borrower's name (including the name of any endorser, comaker, or surety who is indebted to the lender) and account number.

18.16(4) *Application log.* The application log is a chronological list of applications received. The application log shall include the name of the applicant, date the application was completed, the loan originator, notes for action taken on applications (such as "approved," "denied," or "withdrawn"), and date of action. For approved applications, the application log shall show the date the loan closed and the name of the lender. For purposes of these rules, information from an applicant becomes an application when the licensee obtains the name and social security number of the applicant.

18.16(5) *Loan register.* The loan register shall include the following information for every loan that is made: the date of the transaction, name of the borrower, the loan originator, name of the lender, and amount financed. The register shall be kept chronologically in the order the loans closed. The loan register may be combined with the application log.

18.16(6) *Application file.* A licensee shall maintain an application file for each application received. The application file shall contain copies of the application and any required disclosures. A copy of any adverse action taken on the application shall also be placed in the application file.

18.16(7) *Loan file.* A licensee shall maintain a loan file for each loan made. The loan file consists of the application file and documents from the loan closing. These documents include: note, mortgage, all truth-in-lending disclosures, and all real estate settlement procedures Act disclosures. The loan file shall include documentation of how the loan proceeds were distributed.

18.16(8) *Account ledger.* A licensee shall maintain an account ledger for each loan that is serviced.

a. The account ledger shall include the following information: the name and address of the borrower, loan number, loan date, payment terms, maturity date, principal amount of loan, amount financed, total of payments, property listed as security, and distribution of the loan proceeds.

b. The account ledger shall include a transaction history. Payments shall be posted to the account ledger effective the date payments were received. Payment entries will show the date payment was received, the total amount of the payment, and a description of how the payment was applied to the borrower's account (amount applied to principal, interest, escrow, late fees, or additional written description). Other transactions shall be fully described. Corrections to the transaction history shall be made by corrective entry and not by erasure.

c. The account ledger shall show remaining balances due from the borrower, including principal, escrow, late fees, and other charges.

d. The account ledger shall show any change to the interest rate and the effective date of that change.

e. The account ledger shall include full descriptions of payments made outside the normal course of business, for example, payments made by the sale of security, insurance claim, or endorser. For any payments made by death claims on credit insurance, the date of death shall be noted in the account ledger.

f. When a loan is prepaid in full, the account ledger shall show the dates and amounts of any rebates made to the borrower including escrow rebates and the refunds of unearned insurance premiums.

18.16(9) *General business records.* A licensee must keep the following general business records for at least 36 months:

a. All checkbooks, check registers, bank statements, deposit slips, withdrawal slips, and canceled checks (or copies thereof) relating to the mortgage business of the licensee.

b. Complete records (including invoices and supporting documentation) for all expenses and fees paid on behalf of each mortgage applicant, including a record of the date and amount of all such payments actually made by each mortgage applicant.

c. Copies of all federal tax withholding forms, reports of income for federal taxation, and evidence of payments to all employees, independent contractors, and others compensated by a licensee in connection with the conduct of the mortgage lending business.

d. All correspondence and other records relating to the maintenance of any surety bond required by Iowa Code chapter 535B.

e. Copies of all contractual arrangements or understandings with third parties in any way relating to the provision of mortgage lending services (including, but not limited to, any delegations of underwriting authority, any agreements for pricing of goods or services, any investor contracts, any employment agreements, and any noncompete agreements).

f. Copies of all reports of audits, examinations, inspections, reviews, investigations, or other similar functions performed by any third party, including but not limited to the administrator or any other regulatory or supervisory authority.

g. Copies of all advertisements and solicitations concerning mortgage business directed at Iowa residents, including advertisements and solicitations on the Internet or by other electronic means, in the format (e.g., recorded sound, video, print) in which the advertisements and solicitations were published or distributed.

187—18.17(17A,535B) Annual report. On or before April 15 each year, a licensee shall file with the administrator an annual report for the preceding calendar year on forms prescribed by the administrator. For every day after April 15 that the report is not received, the administrator may assess late fees of \$10 per day.

187—18.18(17A,535B) Advertising and representations to potential borrowers.

18.18(1) Any advertisement of mortgage loans which are offered by or through a licensee or individual registrant shall conform to the following requirements:

a. An advertisement shall be in compliance with Truth-in-Lending, Regulation Z, and any other applicable state and federal laws and regulations.

b. An advertisement shall be made only for such products and terms as are actually available and, if their availability is subject to any material requirements or limitations, the advertisement shall specify those requirements or limitations.

c. An advertisement shall not make any statement or fail to make any statement the result of which shall present a misleading or deceptive impression to consumers.

18.18(2) A licensee or individual registrant receiving a verbal or written inquiry about the licensee's or individual registrant's services shall respond accurately to any questions about the scope and nature of such services and any costs.

187—18.19(17A,535B) Complaints and investigations.

18.19(1) The administrator may, at any time and as often as the administrator deems necessary, investigate a business and examine the books, accounts, records, and files used by a licensee or individual registrant.

18.19(2) The administrator may investigate complaints or alleged violations about any licensee or individual registrant.

18.19(3) The following shall constitute a complaint or alleged violation:

a. A written complaint received from a consumer, member of the public, employee business affiliate, or other governmental agency.

b. Notice to the administrator from any source that the licensee or individual registrant has been the subject of disciplinary proceedings in another jurisdiction.

c. Notice to the administrator from any source that the licensee or individual registrant has been convicted of forgery, embezzlement, obtaining money under false pretenses, extortion, conspiracy to defraud, or other 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.

187—18.20(17A,535B) Disciplinary action.

18.20(1) The administrator has authority pursuant to Iowa Code chapters 535B and 17A to impose discipline for violations of Iowa Code chapter 535B and the rules promulgated thereunder.

18.20(2) Grounds for discipline. The administrator may impose any of the disciplinary sanctions set out in Iowa Code section 535B.7 when the administrator finds any of the following:

a. The licensee or individual registrant has violated a provision of Iowa Code chapter 535B or a rule adopted under Iowa Code chapter 535B or any other state or federal law applicable to the conduct of mortgage banking or mortgage brokering, including but not limited to Iowa Code chapters 535 and 535A.

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

c. The licensee is found upon investigation to be insolvent, in which case the license shall be revoked immediately.

d. The licensee or individual registrant has violated an order of the administrator.

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

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

g. The licensee or individual registrant continues to operate as a mortgage banker or mortgage broker without an active and current license or individual registration.

h. The individual registrant continues to act as a mortgage banker or mortgage broker without first satisfying the required continuing education, absent an express waiver granted by the administrator.

i. The individual registrant has submitted a false report of continuing education.

j. The licensee or individual registrant fails to notify the administrator within three days of the occurrence of one of the significant events set forth in rule 18.7(17A,535B).

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

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

18.20(3) A licensee or individual registrant may surrender a license or individual registration by delivering to the administrator a written notice of surrender.

18.20(4) The administrator may issue a cease and desist order ordering a person to cease and desist from violating any provision of Iowa Code chapter 535B or rules adopted thereunder. The process for issuing a cease and desist order is described in Iowa Code section 535B.13.

Rules 187—18.1(17A,535B) to 187—18.20(17A,535B) are intended to implement Iowa Code chapter 535B.

187—18.21(252J) Nonpayment of child support. The administrator shall deny the issuance or renewal of an individual registration 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.

18.21(1) The notice required by Iowa Code section 252J.8 shall be served upon the individual registrant or applicant by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the individual registrant or applicant may accept service personally or through authorized counsel.

18.21(2) The effective date of the denial of the issuance or renewal of an individual registration, as specified in the notice required by Iowa Code section 252J.8, shall be 60 days following service of the notice upon the individual registrant or applicant.

18.21(3) The administrator is authorized to prepare and serve the notice required by Iowa Code section 252J.8 upon the individual registrant or applicant.

18.21(4) Individual registrants and applicants shall keep the administrator 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 administrator 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.

18.21(5) All administrator fees for applications or individual registration renewal or reinstatement must be paid by individual registrants or applicants, and all continuing education requirements must be met before an individual registration will be issued, renewed or reinstated after the administrator has denied the issuance or renewal of an individual registration pursuant to Iowa Code chapter 252J.

18.21(6) In the event an individual registrant or applicant files a timely district court action following service of an administrator notice pursuant to Iowa Code sections 252J.8 and 252J.9, the administrator 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 administrator to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of an individual registration, the administrator 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.

18.21(7) The administrator shall notify the individual registrant or applicant in writing through regular first-class mail, or such other means as the administrator deems appropriate in the circumstances, within ten days of the effective date of the denial of the issuance or renewal of an individual registration,

and shall similarly notify the individual registrant or applicant when the individual registration is issued or renewed following the administrator's receipt of a withdrawal of the certificate of noncompliance.

This rule is intended to implement Iowa Code chapter 252J.

187—18.22(261) Nonpayment of student loan. The administrator shall deny the issuance or renewal of an individual registration upon receipt of a certificate of noncompliance from the college student aid commission according to the procedures set forth in Iowa Code chapter 261. In addition to those procedures, this rule shall apply.

18.22(1) The notice required by Iowa Code section 261.126 shall be served by restricted certified mail, return receipt requested, or by personal service in accordance with the Iowa Rules of Civil Procedure. Alternatively, the applicant or individual registrant may accept service personally or through authorized counsel.

18.22(2) The effective date of the denial of the issuance or renewal of an individual registration, as specified in the notice required by Iowa Code section 261.126, shall be 60 days following service of the notice upon the applicant or individual registrant.

18.22(3) The administrator is authorized to prepare and serve the notice required by Iowa Code section 261.126 upon the applicant or individual registrant.

18.22(4) Applicants and individual registrants shall keep the administrator informed of all court actions and all college student aid commission actions taken under or in connection with Iowa Code chapter 261 and shall provide the administrator copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 261.127, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the college student aid commission.

18.22(5) All administrator fees required for application, individual registration renewal or reinstatement must be paid by applicants or individual registrants, and all continuing education requirements must be met before an individual registration will be issued, renewed, or reinstated after the administrator has denied the issuance or renewal of an individual registration pursuant to Iowa Code chapter 261.

18.22(6) In the event an applicant or individual registrant timely files a district court action following service of an administrator notice pursuant to Iowa Code sections 261.126 and 261.127, the administrator 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 administrator to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of an individual registration, the administrator 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.

18.22(7) The administrator shall notify the applicant or individual registrant in writing through regular first-class mail, or such other means as the administrator deems appropriate in the circumstances, within ten days of the effective date of the denial of the issuance or renewal of an individual registration, and shall similarly notify the applicant or individual registrant when the individual registration is issued or renewed following the administrator's receipt of a withdrawal of the certificate of noncompliance.

This rule is intended to implement Iowa Code sections 261.126 and 261.127.

187—18.23(82GA,SF2428) Nonpayment of state debt. The administrator shall deny the issuance or renewal of an individual registration upon the receipt of a certificate of noncompliance from the centralized collection unit of the department of revenue according to the procedures in 2008 Iowa Acts, Senate File 2428. In addition to the procedures set forth in 2008 Iowa Acts, Senate File 2428, this rule shall apply.

18.23(1) The notice required by 2008 Iowa Acts, Senate File 2428, section 14, shall be served on the individual registrant or applicant by restricted certified mail, return receipt requested, or personal service in accordance with the Iowa Rules of Civil Procedure. Alternatively, the individual registrant or applicant may accept service personally or through authorized counsel.

18.23(2) The effective date of the denial of issuance or renewal of a license, as specified in the notice required by 2008 Iowa Acts, Senate File 2428, section 14, shall be 60 days following service of the notice upon the individual registrant or applicant.

18.23(3) The administrator is authorized to prepare and serve the notice required by 2008 Iowa Acts, Senate File 2428, section 14, upon the individual registrant or applicant.

18.23(4) Individual registrants and applicants shall keep the administrator informed of all court actions and all centralized collection unit actions taken under or in connection with 2008 Iowa Acts, Senate File 2428, and shall provide the administrator copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to 2008 Iowa Acts, Senate File 2428, section 15, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the centralized collection unit.

18.23(5) All fees for applications, individual registration renewals or reinstatements must be paid by individual registrants or applicants, and all continuing education requirements must be met before an individual registration will be issued, renewed or reinstated after the administrator has denied the issuance or renewal of an individual registration pursuant to 2008 Iowa Acts, Senate File 2428.

This rule is intended to implement 2008 Iowa Acts, Senate File 2428.

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