

CHAPTER 18
MORTGAGE BANKERS, MORTGAGE BROKERS,
AND REAL ESTATE CLOSING AGENTS

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

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:

“Mortgage loan originator” means a natural person who is licensed under Iowa Code chapter 535D and 187—Chapter 19.

“Nationwide multistate licensing system” or *“NMLS”* means the same as “nationwide mortgage licensing system and registry” as defined in Iowa Code section 535D.3.

“Services a loan” means undertaking the direct collection of payments on a loan from the borrower or holding the right to undertake direct collection of payments on a loan from the borrower. Undertaking the direct collection of payments means receiving any scheduled periodic payments from a borrower pursuant to the terms of any federally related mortgage loan. Holding the right to undertake direct collection of payments means holding the right to service a loan, including where the holder of this right contracts with or otherwise arranges for another person to service the loan.

“Residential mortgage loan application” means:

1. Any communication, regardless of form, from a licensee to a borrower 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 licensee 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 0590D, IAB 9/16/26, effective 10/21/26]

187—18.2(17A,536) Utilization of NMLS.

18.2(1) All application and licensing information shall be submitted through NMLS, including but not limited to the following: original application information; changes in application information; license renewal information; changes in name, location, and control; and notices of significant events.

18.2(2) The applicant or licensee shall pay any fees required by NMLS, including but not limited to the following: initial set-up fee and annual processing fees, background check fees, credit background check fees, and a loan sponsorship transfer fee.

[ARC 0590D, IAB 9/16/26, effective 10/21/26]

187—18.3(17A,535B) Application for license.

18.3(1) An application for a license to operate as a mortgage banker, mortgage broker, or closing agent shall be submitted to the administrator, on the form provided and with the information requested, through NMLS. The administrator may consider an application or registration withdrawn if the application or registration does not contain all required information and the information is not submitted to the administrator within 30 days after the administrator requests the information. The applicant may also request that the application be withdrawn at any time before the superintendent has decided to grant or deny the application.

18.3(2) Each officer, director, and individual who has control of 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.

18.3(3) The applicant must submit the application fee specified in Iowa Code section 535B.4(10) plus \$40 per additional branch location, but the application fee is not subject to refund.

18.3(4) If any information material to the application changes after the filing of the initial application, the applicant shall provide updated information to the administrator in writing within ten days of the change. Failure to provide updated information when a change has occurred may result in denial of the application.

18.3(5) An applicant for a mortgage banker or mortgage broker license must file with the administrator a bond complying with the provisions of Iowa Code section 535B.9. The bond amount required to be filed and maintained by the applicant shall be set and adjusted as necessary annually in accordance with the following scale, based on the volume of residential mortgage loans made, originated, arranged, brokered, processed, underwritten, and serviced by the applicant or licensee during the preceding calendar year:

<u>Loans</u>	<u>Bond Amount</u>
\$0 – \$100,000,000	\$100,000
Over \$100,000,000	\$150,000

An applicant for a closing agent license must file with the administrator a bond in the amount of \$25,000, which complies with the provisions of Iowa Code section 535B.9.

[ARC 0590D, IAB 9/16/26, effective 10/21/26]

187—18.4(17A,535B) Grounds for approval or denial.

18.4(1) The superintendent shall approve or deny a license application in accordance with the provisions of Iowa Code section 535B.5.

18.4(2) The following may be considered evidence that the business of the applicant may not be operated honestly in the public interest consistent with the purposes of Iowa Code chapter 535B and may therefore be considered grounds for denial of an application:

a. An applicant, or an officer, director, or individual who has control of an applicant, has had a mortgage loan originator license or any lending license revoked in any governmental jurisdiction.

b. An applicant, or an officer, director, or individual who has control of an applicant, has been convicted of, or has pleaded guilty or no contest to, a felony in a domestic, foreign, or military court if such felony involved an act of fraud, dishonesty, or breach of trust, or money laundering. A pardon of a conviction shall not constitute a conviction for purposes of this subrule.

18.4(3) A person is not eligible for licensing as a mortgage banker or mortgage broker unless all mortgage loan originators who are employed by, under contract with, or exclusive agents of the person have successfully completed the licensing requirements of Iowa Code chapter 535D.

[ARC 0590D, IAB 9/16/26, effective 10/21/26]

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

18.5(1) A licensee must renew a license before the expiration date of the license to remain authorized to act as a mortgage banker, mortgage broker, or closing agent. Licenses expire on the next December 31 after they are issued, but licenses granted on or after November 1 but before January 1 do not expire until December 31 of the following year.

18.5(2) An application to renew a license shall be submitted to the administrator, on the form provided and with the information requested, including any material change to information contained in the original application, through NMLS by December 1 of the year of expiration. In addition to the renewal fee specified in Iowa Code section 535B.7(7), mortgage banker or mortgage broker licensees shall pay a branch office renewal fee of \$40 per branch.

18.5(3) The administrator shall grant an application to renew a license if:

a. The licensee submits the application and the appropriate renewal fee by December 1 or the licensee submits the application after December 1 but before January 1 and pays 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.

18.5(4) The administrator may reject for processing a renewal application submitted after December 31 or treat such an application as an application for a new license.

[ARC 0590D, IAB 9/16/26, effective 10/21/26]

187—18.6(17A,535B) Changes in the licensee's name, location, or control; fees.

18.6(1) A licensee shall notify the administrator through NMLS of a change in the location, the addition, or the closing of any office prior to the change, addition, or closure.

18.6(2) A mortgage banker or mortgage broker licensee shall maintain on file with the administrator, through NMLS, a list of all mortgage loan originators who are employed by, under contract with, or exclusive agents of the licensee and pay any fees assessed by NMLS to add a mortgage loan originator to the licensee's list in NMLS.

18.6(3) When a mortgage loan originator ceases to be employed by, under contract with, or an exclusive agent of a mortgage banker or mortgage broker licensee, the licensee shall notify the administrator, through NMLS, within ten days and include the reasons for the termination of the mortgage loan originator's employment, contract, or agency.

18.6(4) A mortgage banker or mortgage broker licensee shall notify the administrator through NMLS of the addition of any mortgage loan originator, owner, officer, partner, or director within ten days of addition.

18.6(5) When a change of control of a licensee is proposed, the party that will assume control of the licensee shall give notice to the superintendent through NMLS at least 60 days before the proposed change will take effect. The party that will assume control of the licensee shall furnish the superintendent through NMLS with the same information required of initial applicants for a license, along with the appropriate fee. The party that will assume control may be required to 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. The superintendent shall approve or deny the request in accordance with the provisions of Iowa Code section 535B.5 and rule 187—18.4(17A,535B).

[ARC 0590D, IAB 9/16/26, effective 10/21/26]

187—18.7(17A,535B) Notice of significant events. A licensee shall notify the administrator in writing within ten 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 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 or any of the licensee's officers, directors, principal stockholders, or affiliates.

18.7(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 any consumer protection laws against the licensee or any of the licensee's officers, directors, principal stockholders, mortgage loan originators, employees, or affiliates.

18.7(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 seller or seller/servicer.

[ARC 0590D, IAB 9/16/26, effective 10/21/26]

187—18.8(17A,535B) Administrative fees.

18.8(1) *Late fees for failing to respond.* In the process of administering 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.

18.8(2) *NMLS system processing fees.* The applicant or licensee shall pay any fee required by NMLS or attributed to the licensee's record in NMLS pursuant to rule 187—18.2(17A,536).

18.8(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.

18.8(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 is 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.

[ARC 0590D, IAB 9/16/26, effective 10/21/26]

187—18.9(17A,535B) Licensee records.

18.9(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 36 months from the date of the final transaction with the borrower or a party in a real estate transaction.
- c. The licensee shall maintain all books and records in good order and produce books and records for the administrator upon request.
- d. The obligation to maintain records continues even after the licensee ceases business operations in Iowa and turns in or surrenders its license. The owners and directors of the licensee are responsible for ensuring this requirement is met.
- e. Mortgage bankers and mortgage brokers shall have the capability to provide information on the characteristics of loan originations as described in subrule 18.16(11) in an electronic format prescribed by the administrator within 30 days of:

(1) The end of each calendar quarter or some other regular interval determined by the administrator; or

(2) Notice from the administrator in the case of an examination.

18.9(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. A mortgage banker who services loans must also keep account ledgers. A mortgage banker who only services loans needs to keep only an index, a loan register, loan files, and account ledgers.
- c. A closing agent shall keep the general business records outlined in subrule 18.9(9) and the following records relating to individual files:

(1) A closing register containing the information outlined in subrule 18.15(5); and

(2) A closing file containing the information outlined in subrule 18.15(6).

18.9(3) Index. An alphabetical record shall be maintained and show the name of each borrower, endorser, comaker, or surety who is indebted to the lender and the account number.

18.9(4) Application log. The application log is a chronological list of residential mortgage loan applications received. The application log shall include the name of the applicant; date the residential mortgage loan application was completed; name of the broker, the lender, and the mortgage loan originator, as applicable, including the unique NMLS identification number assigned to each; notes for action taken on residential mortgage loan application; and date of action. For approved residential mortgage loan applications, the application log shall show the date the loan closed and the name of the lender. Information from an applicant becomes a residential mortgage loan application when the licensee obtains the name and social security number of the applicant.

18.9(5) Loan register. The loan register shall be kept chronologically in the order the loans closed and include the following information for every loan that is made: the date of the transaction; the name of the borrower; the name of the broker, the lender, the mortgage loan originator, and the closing agent, as applicable, including the unique NMLS identification number assigned to each; and the amount financed. A licensee may combine the loan register with the application log.

18.9(6) Application file. A mortgage banker or mortgage broker licensee shall maintain an application file for each residential mortgage loan application received that contains copies of the residential mortgage loan application and any required disclosures. A copy of any adverse action taken on the residential

mortgage loan application, including any documentation supporting that action shall also be placed in the application file. The application file shall also contain the name of the broker, the lender, and the mortgage loan originator, as applicable, including the unique NMLS identification number assigned to each.

18.9(7) *Loan file.* The loan file consists of the application file, the appraisal report, underwriting verifications, the closing file described in subrule 18.15(6) including other supporting documentation, and documents from the loan closing. These documents include: note, mortgage, all Truth-In-Lending Act disclosures, and all Real Estate Settlement Procedures Act disclosures. The loan file shall also contain the name of the broker, the lender, the mortgage loan originator, and the closing agent, as applicable, including the unique NMLS identification number assigned to each.

18.9(8) *Account ledger.* A mortgage banker licensee shall maintain an account ledger for each loan that is serviced, which shall include the following information:

a. 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 transaction history that lists all transactions with the borrower. 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. Other transactions shall be fully described. Corrections to the transaction history shall be made by corrective entry and not by erasure.

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

d. Any change to the interest rate and the effective date of that change.

e. Full descriptions of payments made outside the normal course of business, including 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 dates and amounts of any rebates made to the borrower including escrow rebates and the refunds of unearned insurance premiums.

18.9(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 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 or real estate closing business.

d. All correspondence and other records relating to the maintenance of any 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 or real estate closing 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 in which the advertisements and solicitations were published or distributed.

18.9(10) *Disposal of records.* If the licensee or former licensee disposes of records at the end of the retention period, the licensee or former licensee shall dispose of the records in a reasonable manner that

safeguards any identification information, as defined in Iowa Code section 715A.8(1)“a.” The owners and directors of licensees and former licensees are responsible for ensuring this requirement is met.

18.9(11) *Loan records required to be maintained electronically.*

a. Mortgage bankers and mortgage brokers shall maintain the following records electronically in a format prescribed by the administrator:

(1) Information sufficient to identify the mortgage loan and the unique identifier of the mortgage loan originator, the mortgage broker (if applicable), and the lender for the loan.

(2) Information sufficient to enable a computation of key items in the federal truth-in-lending disclosures, including the annual percentage rate, the finance charge, and a schedule of payments, and any deviations between the final disclosures and the most recent disclosures issued prior to the final disclosures.

(3) Information included in the initial disclosure required under the federal Real Estate Settlement Procedures Act, including the rate, the date of any interest rate lock, and an itemization of settlement charges and all broker compensation.

(4) Information included in the final closing disclosure.

(5) Information related to the terms of each loan, including adjustable rate loan features (including timing of adjustments, indices used in setting rates, maximum and minimum adjustments, floors and ceilings of adjustments), the undiscounted interest rate (if maintained by the lender in an electronic format), penalties for late payments, and penalties for prepayment (including computation of the penalty amount, the duration of prepayment penalty, and the maximum amount of penalty).

(6) Information typically used in underwriting, including the appraised value of the property, the sales price of the property (if a purchase loan), each borrower's income, the monthly payment amount, the housing debt-to-income ratio, the total debt-to-income ratio, and the credit score of each borrower.

(7) Information included in a Loan Application Register for mortgage lenders required to submit information pursuant to the federal Home Mortgage Disclosure Act.

b. Mortgage brokers shall provide information identified in paragraph 18.16(11)“a” unless such information is not prepared or known by the mortgage broker and the mortgage broker does not reasonably have access to the information in an electronic format.

c. The administrator shall permit mortgage bankers and mortgage brokers to utilize compatible third-party software to provide information required under this subrule.

[ARC 0590D, IAB 9/16/26, effective 10/21/26]

187—18.10(17A,535B) Mortgage call reports. Each mortgage banker and mortgage broker licensee shall submit the reports specified in Iowa Code section 535B.18, and the administrator may assess late fees of \$10 per day for each day after the NMLS-established due date that the report is not received.

[ARC 0590D, IAB 9/16/26, effective 10/21/26]

187—18.11(17A,535B) Advertising and representations to potential borrowers.

18.11(1) Any advertisement of mortgage loans offered by or through a mortgage banker or mortgage broker licensee shall:

a. Comply with Truth-in-Lending Act, Regulation Z, and any other applicable state and federal laws and regulations.

b. 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. Not make any statement or fail to make any statement the result of which shall present a misleading or deceptive impression to consumers.

d. Clearly show the licensee's unique NMLS identification number.

18.11(2) A licensee receiving a verbal or written inquiry about the licensee's services shall respond accurately to any questions about the scope and nature of such services and any costs.

[ARC 0590D, IAB 9/16/26, effective 10/21/26]

187—18.12(17A,535B) Complaints and investigations.

18.12(1) The administrator may, at any time and as often as the administrator deems necessary, investigate or examine a licensee pursuant to Iowa Code section 535B.10, including investigating complaints about, or alleged violations by, any licensee.

18.12(2) A complaint or alleged violation means:

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 has been the subject of disciplinary proceedings in another jurisdiction.

c. Notice to the administrator from any source that the licensee 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.

[ARC 0590D, IAB 9/16/26, effective 10/21/26]

187—18.13(17A,535B) Disciplinary action.

18.13(1) Grounds for discipline. The administrator may impose any of the disciplinary sanctions set out in Iowa Code section 535B.7(2) when the superintendent makes any of the findings in Iowa Code section 535B.7(1) or when the administrator finds any of the following:

a. The licensee fails to respond to an inquiry from the administrator within 30 calendar days of the date of mailing a written communication directed to the licensee's last-known address on file with the administrator.

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

18.13(2) The superintendent shall not refund the license fee, in whole or in part, of a license that has been suspended, revoked, or surrendered.

[ARC 0590D, IAB 9/16/26, effective 10/21/26]

187—18.14(17A,535B) Trust fund accounting and internal controls.

18.14(1) A closing agent shall establish and maintain a separate subsidiary ledger for each real estate transaction for which the closing agent performs real estate closing services.

18.14(2) A closing agent shall prepare a trial balance for each trust account and each subsidiary ledger at least once each calendar month.

18.14(3) A closing agent shall perform a three-way reconciliation of bank balance, book balance, and trust account trial balance for each bank trust account at least once each calendar month. A member of the closing agent's management team shall review and approve the reconciliation at least once each calendar month.

18.14(4) A closing agent shall design accounting processes with the appropriate level of internal controls and management oversight, including appropriate segregation of duties. It is recommended that trust account reconciliations be prepared by a person other than a person who records receipts or makes deposits to the trust account. A closing agent may use an outside accountant to perform reconciliations.

[ARC 0590D, IAB 9/16/26, effective 10/21/26]

187—18.15(17A,535B) Closing standards. A licensed closing agent shall comply with the following closing standards:

18.15(1) Read and comply with all closing instructions from the parties to the transaction.

18.15(2) Disburse or deliver funds only in accordance with closing instructions from the lender, the attorney's title opinion or title commitment, and the real estate purchase agreement, when applicable. All disbursements shall agree with the final signed closing disclosure.

18.15(3) Obtain written payoff statements for any loan being paid off as part of the real estate transaction and make all loan payoffs as soon after the closing as is practical, but in no event more than two business days after the closing, or within one business day after the rescission period ends in the case of

a refinance transaction. Placing the loan payoffs with a delivery service for overnight delivery satisfies the requirements of this subrule.

18.15(4) Ensure that all documents for the real estate transaction that require recording are recorded with the appropriate county recorder's office in a timely manner, but in no event more than five business days after the date of the transaction.

18.15(5) Maintain a closing register and a closing index. A closing register is a chronological list of real estate closings. The closing register shall include for each closing the date of the transaction, the name of the buyer or borrower, the name of the seller, the name of the lender and the mortgage loan originator, and the property address, as applicable. A closing index shall be maintained so that all records are accessible by the names of the parties to the transaction (including the name of the buyer or borrower, the name of the seller, and the name of the mortgage loan originator) and file number. A searchable database containing the information required by this subrule satisfies the requirements of this subrule.

18.15(6) Maintain a closing file for each real estate transaction for which the closing agent performed real estate closing services including, at a minimum, the following records:

- a.* An accounting ledger or disbursement sheet that details all receipts and disbursements with date, transaction type, check number, payee, amount, and the file's ending balance. All ledger or disbursement sheets shall balance zero after the transaction is completed. If any balance remains, the date, the reason for the balance, and to whom the balance belongs shall be clearly documented in the file.
- b.* A signed closing disclosure that totals properly and is supported by written instructions for all amounts. If the closing disclosure requires changes, a copy of the new closing disclosure with changes clearly documented shall be maintained in the file.
- c.* A copy of the closing instructions from the lender and other parties to the transaction.
- d.* A copy of the signed real estate contract, if applicable.
- e.* Detailed records of the individuals present at each closing and specifying where and when each closing is held.
- f.* Properly executed affidavits, where required.
- g.* Evidence that the real estate transaction documents were filed with the county recorder.

[ARC 0590D, IAB 9/16/26, effective 10/21/26]

187—18.16(17A,535B) Employees of closing agents.

18.16(1) A closing agent shall exercise diligence in hiring practices, including policies regarding background investigations, and conduct a background investigation and credit check for each employee responsible for handling funds.

18.16(2) A closing agent shall provide appropriate training to employees on real estate closing matters, including trust account administration, real estate closing procedures, and fraud prevention.

[ARC 0590D, IAB 9/16/26, effective 10/21/26]

187—18.17(17A,535B) Reporting obligation. If a closing agent detects defalcation regarding the closing agent's trust account funds, the closing agent must file the following notice with the division of banking within three days of discovering the defalcation: "We have detected circumstances regarding our trust account funds that may warrant an investigation by the banking division. The amount of funds involved is believed to be \$_____."

[ARC 0590D, IAB 9/16/26, effective 10/21/26]

187—18.18(17A,535B) Real estate brokers. A real estate broker performing real estate closing services is eligible for the exemption in Iowa Code section 535B.2(6) only when performing real estate closing services on a transaction in which the broker's brokerage represents one of the parties to the transaction and the closing is being administered through an account regulated by the real estate commission pursuant to Iowa Code chapter 543B.

[ARC 0590D, IAB 9/16/26, effective 10/21/26]

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