

HOUSE BILL NO. HB0169

Mortgage loan originators.

Sponsored by: Joint Minerals, Business and Economic
Development Interim Committee

A BILL

for

1 AN ACT relating to mortgage loan originators; modifying the
2 Wyoming Residential Mortgage Practices Act; modifying the
3 Uniform Consumer Credit Code; amending and providing new
4 definitions; providing exceptions for licenses; providing
5 for surety bonds; providing for confidentiality; providing
6 coordination with and disclaimer to a national registry
7 system; providing for enforcement; requiring reports;
8 providing for loan origination licensing and registration;
9 authorizing rulemaking; providing for processing
10 applications; providing for prelicensing education;
11 providing for continuing education; requiring testing;
12 providing for license renewal; requiring fees; making
13 conforming amendments; repealing a license exemption; and
14 providing for an effective date.

15

16 *Be It Enacted by the Legislature of the State of Wyoming:*

1

2 **Section 1.** W.S. 40-14-637 through 40-14-649 and
3 40-23-124 through 40-23-133 are created to read:

4

5 **40-14-637. Surety bonds.**

6

7 (a) Any licensee employing or contracting with a
8 mortgage loan originator shall maintain a surety bond to
9 the state of Wyoming in accordance with this section. The
10 surety bond shall be used to cover individual mortgage loan
11 originators employed by or under contract with a licensee.
12 The amount of the bond shall be established by rule of the
13 administrator based upon the volume of residential mortgage
14 loan activity transacted by the licensee under this act.

15

16 (b) The surety bond shall be a continuing obligation
17 of the issuing surety. The surety's liability under the
18 bond for any claims made under the bond either individually
19 or in the aggregate shall in no event exceed the face
20 amount of the bond issued. The bond shall be issued by a
21 surety authorized to do business in the state of Wyoming.
22 The bond, including any and all riders and endorsements
23 executed subsequent to the effective date of the bond,
24 shall be placed on file with the administrator.

1

2 (c) In the event a licensee or person employed by or
3 under contract with a licensee has violated any of the
4 provisions of this act or a rule or order lawfully made
5 pursuant to this act, or federal law or regulation
6 pertaining to the mortgage lending or mortgage brokering,
7 and has damaged any person by such violation, then the bond
8 shall be forfeited and paid by the surety to the state of
9 Wyoming for the benefit of any person so damaged, in an
10 amount sufficient to satisfy the violation or the bond in
11 its entirety if the violation exceeds the amount of the
12 bond.

13

14 (d) Surety bonds shall remain effective continuously
15 until released in writing by the administrator. If a bond
16 has not been previously released by the administrator, the
17 bond shall expire two (2) years after the date of the
18 surrender, revocation or expiration of the license.

19

20 **40-14-638. Mortgage call reports.**

21

22 Each licensee employing or contracting with a mortgage loan
23 originator shall submit to the registry reports of

1 condition, which shall be in such form and shall contain
2 such information as required by the registry.

3

4 **40-14-639. Report to the registry.**

5

6 The administrator shall regularly report violations of this
7 act relating to transactions conducted by mortgage loan
8 originators, as well as enforcement actions and other
9 relevant information, to the registry subject to the
10 provisions contained in W.S. 40-14-636.

11

12 **Part 4. Mortgage Loan Originator Licensing**

13

14 **40-14-640. Additional definitions.**

15

16 (a) As used in this part:

17

18 (i) "Channeling agent" means the third party
19 licensing system that gathers the application information
20 and distributes it to Wyoming for review for the approval
21 or denial decision;

22

23 (ii) "Clerical or support duties" means:

24

1 (A) The receipt, collection, distribution
2 and analysis of information common for the processing or
3 underwriting of a residential mortgage loan; and

4

5 (B) Communicating with a consumer to obtain
6 the information necessary for the processing or
7 underwriting of a loan, to the extent that such
8 communication does not include offering or negotiating loan
9 rates or terms, or counseling consumers about residential
10 mortgage loan rates or terms;

11

12 (iii) "Depository institution" means an
13 organization as defined in 12 U.S.C. 1813 of the Federal
14 Deposit Insurance Act and includes any credit union;

15

16 (iv) "Dwelling" means a residential structure
17 that contains one (1) to four (4) units, whether or not
18 that structure is attached to real property. "Dwelling",
19 if it is used as a residence, includes an individual
20 condominium unit, cooperative unit, mobile home and
21 trailer;

22

23 (v) "Federal banking agency" means the board of
24 governors of the federal reserve system, the comptroller of

1 the currency, the director of the office of thrift
2 supervision, the national credit union administration or
3 the federal deposit insurance corporation;

4

5 (vi) "Immediate family member" means a spouse,
6 child, sibling, parent, grandparent, grandchild,
7 stepparent, stepchild, stepsibling and any adoptive
8 relationship included in this paragraph;

9

10 (vii) "Individual" means a natural person;

11

12 (viii) "Loan processor or underwriter" means an
13 individual who performs clerical or support duties as an
14 employee at the direction of and subject to the supervision
15 and instruction of a licensee, or an exempt person under
16 W.S. 40-14-121;

17

18 (ix) "Mortgage loan originator":

19

20 (A) Means an individual who for
21 compensation or gain or in the expectation of compensation
22 or gain:

23

1 (I) Takes a residential mortgage loan
2 application; or

3

4 (II) Offers or negotiates the terms of
5 a residential mortgage loan.

6

7 (B) Shall not include any individual
8 engaged solely as a loan processor or underwriter except as
9 otherwise described in W.S. 40-14-641(d);

10

11 (C) Shall not include a person who only
12 performs real estate brokerage activities and is licensed
13 or registered in accordance with Wyoming law, unless the
14 person is compensated by a lender, a mortgage broker or
15 other mortgage loan originator or by any agent of such
16 lender, mortgage broker or other mortgage loan originator;
17 and

18

19 (D) Shall not include a person solely
20 involved in extensions of credit relating to timeshare
21 plans.

22

1 (x) "Nontraditional mortgage product" means any
2 mortgage product other than a thirty (30) year fixed rate
3 mortgage;

4

5 (xi) "Real estate brokerage activity" means any
6 activity that involves offering or providing real estate
7 brokerage services to the public, including:

8

9 (A) Acting as a real estate agent or real
10 estate broker for a buyer, seller, lessor or lessee of real
11 property;

12

13 (B) Arranging meetings or communicating
14 with any party interested in the sale, purchase, lease,
15 rental or exchange of real property;

16

17 (C) Negotiating, on behalf of any party,
18 any portion of a contract relating to the sale, purchase,
19 lease, rental or exchange of real property, unless the
20 negotiating relates to the financing of these transactions,
21 which shall then constitute engaging in the business as a
22 mortgage loan originator;

23

1 (D) Engaging in any activity for which a
2 person engaged in the activity is required to be registered
3 or licensed as a real estate agent or real estate broker
4 under any applicable law; and

5

6 (E) Offering to engage in any activity, or
7 act in any capacity, described in subparagraph (A), (B),
8 (C) or (D) of this paragraph.

9

10 (xii) "Registered mortgage loan originator"
11 means any individual who:

12

13 (A) Is registered with, and maintains a
14 unique identifier through, the registry; and

15

16 (B) Meets the definition of mortgage loan
17 originator and is an employee of:

18

19 (I) An institution regulated by the
20 farm credit administration;

21

22 (II) A depository institution; or

23

24 (III) A subsidiary that is:

1

2

(1) Owned and controlled by a
depository institution; and

4

5

(2) Regulated by a federal
banking agency.

7

8

(xiii) "Registry" means the nationwide mortgage
licensing system and registry which is 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 lenders, mortgage brokers and
mortgage loan originators;

15

16

(xiv) "Residential mortgage loan" means a
consumer loan as defined in W.S. 40-14-304 or a consumer
credit sale as defined in W.S. 40-14-204, made primarily
for personal, family or household use that is secured by a
mortgage, deed of trust or other equivalent consensual
security interest on a dwelling or residential real estate
upon which is constructed or intended to be constructed a
dwelling;

24

1 (xv) "Timeshare plan" means as defined in 11
2 U.S.C. § 101(53D);

3

4 (xvi) "Unique identifier" means a number or
5 other identifier assigned by protocols established by the
6 registry.

7

8 **40-14-641. Loan originator licensing; registration;**
9 **rulemaking.**

10

11 (a) An individual, unless specifically exempted under
12 subsection (c) of this section, shall not engage in the
13 business of a mortgage loan originator for any dwelling
14 located in Wyoming without first obtaining and maintaining
15 annually a license in accordance with part 4 of this
16 article. Each licensed mortgage loan originator shall
17 register with and maintain a valid unique identifier issued
18 by the registry.

19

20 (b) In order to facilitate an orderly transition to
21 licensing and minimize disruption in the marketplace, the
22 effective date for subsection (a) of this section shall be
23 July 1, 2010.

24

1 (c) An individual is exempt from subsection (a) of
2 this section if he is:

3

4 (i) A registered mortgage loan originator, when
5 acting for an entity described in W.S.
6 40-14-640(a)(xii)(B)(I), (II) or (III);

7

8 (ii) Any individual who offers or negotiates
9 terms of a residential mortgage loan with or on behalf of
10 an immediate family member of the individual;

11

12 (iii) Any individual who offers or negotiates
13 terms of a residential mortgage loan secured by a dwelling
14 that serves as a seller's residence;

15

16 (iv) A licensed attorney who negotiates the
17 terms of a residential mortgage loan on behalf of a client
18 as an ancillary matter to the attorney's representation of
19 the client, unless the attorney is compensated by a lender,
20 a mortgage broker or other mortgage loan originator or by
21 any agent of such lender, mortgage broker or other mortgage
22 loan originator;

23

1 (v) An individual engaging solely in loan
2 processor or underwriter activities, who does not represent
3 to the public, through advertising or other means of
4 communicating or providing information including the use of
5 business cards, stationery, brochures, signs, rate lists or
6 other promotional items, that such individual can or will
7 perform any of the activities of a mortgage loan
8 originator.

9

10 (d) A loan processor or underwriter who is an
11 independent contractor shall not engage in the activities
12 of a loan processor or underwriter unless the independent
13 contractor loan processor or underwriter obtains and
14 maintains a license pursuant to subsection (a) of this
15 section. Each independent contractor loan processor or
16 underwriter licensed as a mortgage loan originator shall
17 have and maintain a valid unique identifier issued by the
18 registry.

19

20 (e) For the purpose of implementing an orderly and
21 efficient licensing process the administrator may establish
22 licensing rules or regulations and interim procedures for
23 licensing and acceptance of applications.

24

1 **40-14-642. Loan originator application; processing.**

2

3 (a) Applicants for a mortgage loan originator license
4 shall apply in a form prescribed by the administrator.
5 Each application form shall contain content as established
6 by the administrator and may be changed or updated as
7 necessary by the administrator in order to carry out the
8 purposes of part 4 of this article.

9

10 (b) In order to fulfill the purposes of this act, the
11 administrator may establish relationships or contract with
12 the registry or any other entity designated by the registry
13 to collect and maintain records and process transaction
14 fees or other fees related to licensees or other persons
15 subject to this act.

16

17 (c) In connection with an application for licensing
18 as a mortgage loan originator, the applicant shall, at a
19 minimum, furnish to the registry information concerning the
20 applicant's identity, including:

21

22 (i) Fingerprints for submission to the federal
23 bureau of investigation, and any governmental agency or
24 entity authorized to receive such information for a state,

1 national and international criminal history background
2 check; and

3

4 (ii) Personal history and experience, including
5 the submission of authorization for the registry and the
6 administrator to obtain:

7

8 (A) An independent credit report obtained
9 from a consumer reporting agency described in section
10 603(p) of the Fair Credit Reporting Act; and

11

12 (B) Information related to any
13 administrative, civil or criminal findings by any
14 governmental jurisdiction.

15

16 (d) For the purposes of this section and in order to
17 reduce the points of contact which the federal bureau of
18 investigation may have to maintain for purposes of
19 paragraph (c)(i) of this section and subparagraph
20 (c)(ii)(B) of this section, the administrator may use the
21 registry as a channeling agent for requesting information
22 from and distributing information to the department of
23 justice or any governmental agency.

24

1 (e) For the purposes of this section and in order to
2 reduce the points of contact which the administrator may
3 have to maintain for purposes of subparagraphs (c)(ii)(A)
4 and (B) of this section, the administrator may use the
5 registry as a channeling agent for requesting and
6 distributing information to and from any source as directed
7 by the administrator.

8

9 (f) Each application submitted under subsection (a)
10 of this section shall be accompanied by an application fee
11 not to exceed three hundred dollars (\$300.00), as
12 established by rule of the administrator. When an
13 application for licensure is denied or withdrawn, the
14 administrator shall retain all fees paid by the applicant.

15

16 **40-14-643. Issuance of loan originator licenses.**

17

18 (a) The administrator shall not issue a mortgage loan
19 originator license unless the administrator makes at a
20 minimum the following findings:

21

22 (i) The applicant has not had a mortgage loan
23 originator license revoked in any governmental

1 jurisdiction, except that a subsequent formal vacation of
2 such revocation shall not be deemed a revocation;

3

4 (ii) The applicant has not been convicted of, or
5 pled guilty or nolo contendere to, a felony in a domestic,
6 foreign or military court:

7

8 (A) During the seven (7) year period
9 preceding the date of the application for licensing and
10 registration; or

11

12 (B) At any time preceding the date of
13 application, if the felony involved an act of fraud,
14 dishonesty, or a breach of trust or money laundering. Any
15 pardon of a conviction shall not be a conviction for the
16 purposes of this paragraph.

17

18 (iii) The applicant has demonstrated financial
19 responsibility, character and general fitness such as to
20 command the confidence of the community and to warrant a
21 determination that the mortgage loan originator will
22 operate honestly, fairly and efficiently within the
23 purposes of this act;

24

1 (iv) The applicant has completed the
2 prelicensing education requirement pursuant to W.S.
3 40-14-644;

4
5 (v) The applicant has passed a written test that
6 meets the test requirement described in W.S. 40-14-645.

7
8 (b) For purposes of paragraph (a)(iii) of this
9 section, a person has shown that he is not financially
10 responsible when he has shown a disregard in the management
11 of his own financial condition. A determination that an
12 individual has not shown financial responsibility shall
13 include, but not be limited to:

14
15 (i) Having any outstanding judgment, except a
16 judgment solely as a result of medical expenses;

17
18 (ii) Having any outstanding tax lien or other
19 government lien;

20
21 (iii) Having any foreclosure within the past
22 three (3) years;

23

1 (iv) Having a pattern of seriously delinquent
2 accounts within the past three (3) years.

3

4 (c) Upon written request, an applicant is entitled to
5 a hearing on the question of his qualifications for a
6 license if:

7

8 (i) The administrator has notified the applicant
9 in writing that his application has been denied, or
10 objections to the application have been filed with the
11 administrator;

12

13 (ii) The administrator has not issued a license
14 within sixty (60) days after a complete application for the
15 license was filed.

16

17 (d) If a hearing is held, the applicant and those
18 filing objections shall reimburse, pro rata, the
19 administrator for his reasonable and necessary expenses
20 incurred as a result of the hearing. Notwithstanding any
21 provision under the Wyoming Administrative Procedure Act, a
22 request for hearing shall not be made more than fifteen
23 (15) days after the applicant has received notification by
24 certified mail that the application has been denied and

1 stating in substance the administrator's finding supporting
2 denial of the application or that objections have been
3 filed and the substance thereof.

4

5 **40-14-644. Prelicensing and relicensing education of**
6 **loan originators.**

7

8 (a) In order to meet the prelicensing education
9 requirement referred to in W.S. 40-14-643(a)(iv), a person
10 shall complete at least twenty (20) hours of education
11 approved in accordance with subsection (b) of this section,
12 which shall include at least:

13

14 (i) Three (3) hours of federal law and
15 regulations related to mortgage origination;

16

17 (ii) Three (3) hours of ethics, which shall
18 include instruction on fraud, consumer protection and fair
19 lending issues; and

20

21 (iii) Two (2) hours of training related to
22 lending standards for the nontraditional mortgage product
23 marketplace.

24

1 (b) For purposes of subsection (a) of this section,
2 prelicensing education courses shall be reviewed and
3 approved by the registry. The review and approval of a
4 prelicensing education course shall include review and
5 approval of the course provider.

6

7 (c) Nothing in this section shall preclude any
8 prelicensing education course, as approved by the registry,
9 that is provided by the employer of the applicant or an
10 entity which is affiliated with the applicant by an agency
11 contract, or any subsidiary or affiliate of such employer
12 or entity.

13

14 (d) Prelicensing education may be offered either in a
15 classroom, online or by any other means approved by the
16 registry.

17

18 (e) The prelicensing education requirements approved
19 by the registry in paragraphs (a)(i), (ii) and (iii) of
20 this section for any state shall be accepted as credit
21 towards completion of prelicensing education requirements
22 in Wyoming.

23

1 (f) An individual licensed under W.S. 40-14-641 after
2 July 1, 2009 and who subsequently applies to be licensed
3 again:

4
5 (i) Shall not have to complete prelicensing
6 education requirements;

7
8 (ii) Shall have completed all the continuing
9 education requirements pursuant to W.S. 40-14-647.

10

11 **40-14-645. Testing of mortgage loan originators.**

12

13 (a) In order to meet the written test requirement
14 under W.S. 40-14-643(a)(v), an individual shall pass, in
15 accordance with the standards established under this
16 section, a qualified written test developed by the registry
17 and administered by a test provider approved by the
18 registry.

19

20 (b) A written test shall not be treated as a
21 qualified written test for purposes of subsection (a) of
22 this section unless the test adequately measures the
23 applicant's knowledge and comprehension in appropriate
24 subject areas, including:

1

2 (i) Ethics;

3

4 (ii) Federal law and regulation pertaining to
5 mortgage origination;

6

7 (iii) Wyoming law and regulation pertaining to
8 mortgage origination; and

9

10 (iv) Federal and Wyoming law and regulation,
11 including instruction on fraud, consumer protection, the
12 nontraditional mortgage marketplace and fair lending
13 issues.

14

15 (c) Nothing in this section shall prohibit a test
16 provider from providing a test at the location of the
17 employer of the applicant, the location of any subsidiary
18 or affiliate of the employer of the applicant or the
19 location of any entity with which the applicant holds an
20 exclusive arrangement to conduct the business of a mortgage
21 loan originator.

22

23 (d) An individual shall not be considered to have
24 passed a qualified written test unless the individual

1 achieves a test score of not less than seventy-five percent
2 (75%) correct answers to test questions.

3

4 (e) An individual may retake a test three (3) times
5 with each test taking occurring at least thirty (30) days
6 after the preceding test.

7

8 (f) After failing three (3) tests, an individual
9 shall wait at least six (6) months before taking the test
10 again.

11

12 (g) A licensed mortgage loan originator who fails to
13 maintain a valid license for at least five (5) years shall
14 retake the written test. Any time the individual spends
15 working as a registered mortgage loan originator shall not
16 be counted against this five (5) year period.

17

18 **40-14-646. Standards for loan originator license**
19 **renewal; rulemaking.**

20

21 (a) The minimum standards for license renewal for
22 mortgage loan originators shall include the following:

23

1 (i) The mortgage loan originator continues to
2 meet the minimum standards for license issuance under W.S.
3 40-14-643(a)(i) through (v);

4

5 (ii) The mortgage loan originator has satisfied
6 the annual continuing education requirements described in
7 W.S. 40-14-647;

8

9 (iii) The mortgage loan originator has paid the
10 license renewal fee not to exceed three hundred dollars
11 (\$300.00), as established by rule of the administrator.

12

13 (b) Each mortgage loan originator license shall
14 expire on December 31. The license shall be renewed
15 annually by satisfying the minimum standards for license
16 renewal not less than thirty (30) days before the stated
17 expiration date. The administrator may establish rules for
18 the reinstatement of expired licenses consistent with the
19 standards established by the registry.

20

21 **40-14-647. Continuing education for mortgage loan**
22 **originators; rulemaking.**

23

1 (a) In order to meet the annual continuing education
2 requirements required by W.S. 40-14-646(a)(ii), a licensed
3 mortgage loan originator shall complete at least eight (8)
4 hours of education approved in accordance with subsection
5 (b) of this section, which shall include at least:

6

7 (i) Three (3) hours of federal law and
8 regulations relating to mortgage origination;

9

10 (ii) Two (2) hours of ethics, which shall
11 include instruction on fraud, consumer protection and fair
12 lending issues; and

13

14 (iii) Two (2) hours of training related to
15 lending standards for the nontraditional mortgage product
16 marketplace.

17

18 (b) For purposes of subsection (a) of this section,
19 continuing education courses shall be reviewed and approved
20 by the registry. The review and approval of a continuing
21 education course shall include review and approval of the
22 course provider.

23

1 (c) Nothing in this section shall preclude any
2 education course, as approved by the registry, that is
3 provided by the employer of the mortgage loan originator or
4 an entity which is affiliated with the mortgage loan
5 originator by an agency contract, or any subsidiary or
6 affiliate of such employer or entity.

7

8 (d) Continuing education may be offered either in a
9 classroom, online or by any other means approved by the
10 registry.

11

12 (e) A licensed mortgage loan originator:

13

14 (i) Except as provided in W.S. 40-14-646(b),
15 shall only receive credit for a continuing education course
16 in the year in which the course is taken; and

17

18 (ii) Shall not take the same approved course in
19 the same year or successive years to meet the annual
20 requirements for continuing education.

21

22 (f) A licensed mortgage loan originator who is an
23 instructor of an approved continuing education course may
24 receive credit for the licensed mortgage loan originator's

1 own annual continuing education requirement at the rate of
2 two (2) hours credit for every one (1) hour taught.

3

4 (g) An individual having successfully completed the
5 education requirements approved by the registry in
6 paragraphs (a)(i), (ii) and (iii) of this section for any
7 state shall be accepted as credit towards completion of
8 continuing education requirements in Wyoming.

9

10 (h) An individual meeting the requirements of W.S.
11 40-14-646(a)(i) and (iii) may make up any deficiency in
12 continuing education as established by rule of the
13 administrator.

14

15 (j) An individual licensed under W.S. 40-14-641 after
16 July 1, 2009 and who subsequently applies to be licensed
17 again shall complete the continuing education requirements
18 for the last year in which the license was held prior to
19 issuance of a new or renewed license.

20

21 **40-14-648. Authority to require license.**

22

23 (a) In addition to any other duties imposed upon the
24 administrator by law, the administrator shall require

1 mortgage loan originators to be licensed and registered
2 through the registry. In order to carry out this
3 requirement the administrator may participate in the
4 registry. For this purpose, the administrator may
5 establish by rule any requirements as necessary, including
6 but not limited to:

7

8 (i) Background checks for:

9

10 (A) Criminal history through fingerprint or
11 other databases;

12

13 (B) Civil or administrative records;

14

15 (C) Credit history; or

16

17 (D) Any other information as deemed
18 necessary by the registry.

19

20 (ii) The payment of fees to apply for or renew
21 licenses through the registry; and

22

1 (iii) Requirements for amending or surrendering
2 a license or any other such activities as the administrator
3 deems necessary for participation in the registry.

4

5 **40-14-649. Unique identifier; rulemaking.**

6

7 The unique identifier of any person originating a
8 residential mortgage loan shall be clearly shown on all
9 residential mortgage loan applications forms, solicitations
10 or advertisements, including business cards or websites,
11 and any other documents as established by rule of the
12 administrator.

13

14 **40-23-124. Loan originator licensing; registration;**
15 **rulemaking.**

16

17 (a) An individual, unless specifically exempted under
18 subsection (c) of this section, shall not engage in the
19 business of a mortgage loan originator for any dwelling
20 located in Wyoming without first obtaining and maintaining
21 annually a license in accordance with this act. Each
22 licensed mortgage loan originator shall register with and
23 maintain a valid unique identifier issued by the registry.

24

1 (b) In order to facilitate an orderly transition to
2 licensing and minimize disruption in the marketplace, the
3 effective date for subsection (a) of this section shall be
4 July 1, 2010.

5

6 (c) An individual is exempt from subsection (a) of
7 this section if he is:

8

9 (i) A registered mortgage loan originator, when
10 acting for an entity described in W.S.
11 40-23-102(a)(xxx)(B)(I), (II) or (III);

12

13 (ii) An individual who offers or negotiates
14 terms of a residential mortgage loan with or on behalf of
15 an immediate family member of the individual;

16

17 (iii) An individual who offers or negotiates
18 terms of a residential mortgage loan secured by a dwelling
19 that serves as a seller's residence;

20

21 (iv) A licensed attorney who negotiates the
22 terms of a residential mortgage loan on behalf of a client
23 as an ancillary matter to the attorney's representation of
24 the client, unless the attorney is compensated by a lender,

1 a mortgage broker or other mortgage loan originator or by
2 any agent of such lender, mortgage broker or other mortgage
3 loan originator;

4

5 (v) An individual engaging solely in loan
6 processor or underwriter activities, who does not represent
7 to the public, through advertising or other means of
8 communicating or providing information including the use of
9 business cards, stationery, brochures, signs, rate lists or
10 other promotional items, that the individual can or will
11 perform any of the activities of a mortgage loan
12 originator.

13

14 (d) A loan processor or underwriter who is an
15 independent contractor may not engage in the activities of
16 a loan processor or underwriter unless the independent
17 contractor, loan processor or underwriter obtains and
18 maintains a license pursuant to subsection (a) of this
19 section. Each independent contractor, loan processor or
20 underwriter licensed as a mortgage loan originator shall
21 have and maintain a valid unique identifier issued by the
22 registry.

23

1 (e) For the purposes of implementing an orderly and
2 efficient licensing process the commissioner may establish
3 licensing rules or regulations and interim procedures for
4 licensing and acceptance of applications.

5

6 **40-23-125. Loan originator application; processing.**

7

8 (a) Applicants for a mortgage loan originator license
9 shall apply in a form prescribed by the commissioner. Each
10 application form shall contain content as set forth by rule
11 of the commissioner and may be changed or updated as
12 necessary by the commissioner in order to carry out the
13 purposes of this act.

14

15 (b) In order to fulfill the purposes of this act, the
16 commissioner may establish relationships or contracts with
17 the registry or other entities designated by the registry
18 to collect and maintain records and process transaction
19 fees or other fees related to licensees or other persons
20 subject to this act.

21

22 (c) In connection with an application for licensing
23 as a mortgage loan originator, the applicant shall, at a

1 minimum, furnish to the registry information concerning the
2 applicant's identity, including:

3

4 (i) Fingerprints for submission to the federal
5 bureau of investigation, and any governmental agency or
6 entity authorized to receive such information for a state,
7 national and international criminal history background
8 check; and

9

10 (ii) Personal history and experience, including
11 the submission of authorization for the registry and the
12 commissioner to obtain:

13

14 (A) An independent credit report obtained
15 from a consumer reporting agency described in section
16 603(p) of the Fair Credit Reporting Act; and

17

18 (B) Information related to any
19 administrative, civil or criminal findings by any
20 governmental jurisdiction.

21

22 (d) For the purposes of this section and in order to
23 reduce the points of contact which the federal bureau of
24 investigation may have to maintain for purposes of

1 paragraph (c)(i) of this section and subparagraph
2 (c)(ii)(B) of this section, the commissioner may use the
3 registry as a channeling agent for requesting information
4 from and distributing information to the department of
5 justice or any governmental agency.

6

7 (e) For the purposes of this section and in order to
8 reduce the points of contact which the commissioner may
9 have to maintain for purposes of subparagraphs (c)(ii)(A)
10 and (B) of this section, the commissioner may use the
11 registry as a channeling agent for requesting and
12 distributing information to and from any source so directed
13 by the commissioner.

14

15 (f) Each application submitted under subsection (a)
16 of this section shall be accompanied by an application fee
17 not to exceed three hundred dollars (\$300.00), as
18 established by rule of the commissioner. When an
19 application for licensure is denied or withdrawn, the
20 commissioner shall retain all fees paid by the applicant.

21

22 **40-23-126. Issuance of loan originator license.**

23

1 (a) The commissioner shall not issue a mortgage loan
2 originator license unless the commissioner makes at a
3 minimum the following findings:

4
5 (i) The applicant has never had a mortgage loan
6 originator license revoked in any governmental
7 jurisdiction, except that a subsequent formal vacation of
8 such revocation shall not be deemed a revocation;

9
10 (ii) The applicant has not been convicted of, or
11 pled guilty or nolo contendere to, a felony in a domestic,
12 foreign or military court:

13
14 (A) During the seven (7) year period
15 preceding the date of the application for licensing and
16 registration; or

17
18 (B) At any time preceding the date of
19 application, if the felony involved an act of fraud,
20 dishonesty, or a breach of trust or money laundering;

21
22 (C) A pardon of a conviction shall not be a
23 conviction for the purposes of this paragraph.

24

1 (iii) The applicant has demonstrated financial
2 responsibility, character and general fitness such as to
3 command the confidence of the community and to warrant a
4 determination that the mortgage loan originator will
5 operate honestly, fairly and efficiently within the
6 purposes of this act;

7

8 (iv) The applicant has completed the
9 prelicensing education requirement pursuant to W.S.
10 40-23-127;

11

12 (v) The applicant has passed a written test that
13 meets the test requirement of W.S. 40-23-128.

14

15 (b) For purposes of paragraph (a)(iii) of this
16 section, a person has shown that he is not financially
17 responsible when he has shown a disregard in the management
18 of his own financial condition. A determination that an
19 individual has not shown financial responsibility shall
20 include, but not be limited to:

21

22 (i) Having any outstanding judgment, except a
23 judgment solely as a result of medical expenses;

24

1 (ii) Having any outstanding tax lien or other
2 government lien;

3

4 (iii) Having any foreclosure within the past
5 three (3) years;

6

7 (iv) Having a pattern of seriously delinquent
8 accounts within the past three (3) years.

9

10 (c) Upon written request, an applicant is entitled to
11 a hearing on the question of his qualifications for a
12 license if:

13

14 (i) The commissioner has notified the applicant
15 in writing that his application has been denied, or
16 objections to the application have been filed with the
17 commissioner;

18

19 (ii) The commissioner has not issued a license
20 within sixty (60) days after a complete application for the
21 license was filed.

22

23 (d) If a hearing is held, the applicant and those
24 filing objections shall reimburse, pro rata, the

1 commissioner for his reasonable and necessary expenses
2 incurred as a result of the hearing. Notwithstanding any
3 provision under the Wyoming Administrative Procedure Act, a
4 request for hearing shall not be made more than fifteen
5 (15) days after the applicant has received notification by
6 certified mail that the application has been denied and
7 stating in substance the commissioner's finding supporting
8 denial of the application or that objections have been
9 filed and the substance thereof.

10

11 **40-23-127. Prelicensing and relicensing education of**
12 **loan originators.**

13

14 (a) In order to meet the prelicensing education
15 requirement referred to in W.S. 40-23-126(a)(iv), a person
16 shall complete at least twenty (20) hours of education
17 approved in accordance with subsection (b) of this section,
18 which shall include at least:

19

20 (i) Three (3) hours of federal law and
21 regulations related to mortgage origination;

22

1 (ii) Three (3) hours of ethics, which shall
2 include instruction on fraud, consumer protection and fair
3 lending issues; and

4
5 (iii) Two (2) hours of training related to
6 lending standards for the nontraditional mortgage product
7 marketplace.

8
9 (b) For purposes of subsection (a) of this section,
10 prelicensing education courses shall be reviewed and
11 approved by the registry. The review and approval of a
12 prelicensing education course shall include review and
13 approval of the course provider.

14
15 (c) Nothing in this section shall preclude any
16 prelicensing education course, as approved by the registry,
17 that is provided by the employer of the applicant or an
18 entity which is affiliated with the applicant by an agency
19 contract, or any subsidiary or affiliate of such employer
20 or entity.

21
22 (d) Prelicensing education may be offered either in a
23 classroom, online or by any other means approved by the
24 registry.

1

2 (e) The prelicensing education requirements approved
3 by the registry in paragraphs (a)(i), (ii) and (iii) of
4 this section for any state shall be accepted as credit
5 towards completion of prelicensing education requirements
6 in Wyoming.

7

8 (f) An individual licensed under W.S. 40-23-124 after
9 July 1, 2009 and who subsequently applies to be licensed
10 again:

11

12 (i) Shall not have to complete prelicensing
13 education requirements;

14

15 (ii) Shall have completed all the continuing
16 education requirements pursuant to W.S. 40-23-130.

17

18 **40-23-128. Testing of mortgage loan originators.**

19

20 (a) In order to meet the written test requirement
21 under W.S. 40-23-126(a)(v), an individual shall pass, in
22 accordance with the standards established under this
23 section, a qualified written test developed by the registry

1 and administered by a test provider approved by the
2 registry.

3

4 (b) A written test shall not be treated as a
5 qualified written test for purposes of subsection (a) of
6 this section unless the test adequately measures the
7 applicant's knowledge and comprehension in appropriate
8 subject areas, including:

9

10 (i) Ethics;

11

12 (ii) Federal law and regulation pertaining to
13 mortgage origination;

14

15 (iii) Wyoming law and regulation pertaining to
16 mortgage origination; and

17

18 (iv) Federal and Wyoming law and regulation,
19 including instruction on fraud, consumer protection, the
20 nontraditional mortgage marketplace and fair lending
21 issues.

22

23 (c) Nothing in the section shall prohibit a test
24 provider from providing a test at the location of the

1 employer of the applicant, the location of any subsidiary
2 or affiliate of the employer of the applicant or the
3 location of any entity with which the applicant holds an
4 exclusive arrangement to conduct the business of a mortgage
5 loan originator.

6

7 (d) An individual shall not be considered to have
8 passed a qualified written test unless the individual
9 achieves a test score of not less than seventy-five percent
10 (75%) correct answers to questions.

11

12 (e) An individual may retake a test three (3) times
13 with each test taking occurring at least thirty (30) days
14 after the preceding test.

15

16 (f) After failing three (3) tests, an individual
17 shall wait at least six (6) months before taking the test
18 again.

19

20 (g) A licensed mortgage loan originator who fails to
21 maintain a valid license for at least five (5) years shall
22 retake the written test. Any time the individual spends
23 working as a registered mortgage loan originator shall not
24 be counted against this five (5) year period.

1

2 **40-23-129. Standards for loan originator license**
3 **renewal; rulemaking.**

4

5 (a) The minimum standards for license renewal for
6 mortgage loan originators shall include the following:

7

8 (i) The mortgage loan originator continues to
9 meet the minimum standards for license issuance under W.S.
10 40-23-126(a)(i) through (v);

11

12 (ii) The mortgage loan originator has satisfied
13 the annual continuing education requirements described in
14 W.S. 40-23-130;

15

16 (iii) The mortgage loan originator has paid the
17 license renewal fee not to exceed three hundred dollars
18 (\$300.00), as established by rule of the commissioner.

19

20 (b) Each mortgage loan originator license shall
21 expire on December 31. The license shall be renewed
22 annually by satisfying the minimum standards for license
23 renewal under subsection (a) of this section not less than
24 thirty (30) days before the stated expiration date. The

1 commissioner may establish rules for the reinstatement of
2 expired licenses consistent with the standards established
3 by the registry.

4

5 **40-23-130. Continuing education for mortgage loan**
6 **originators; rulemaking.**

7

8 (a) In order to meet the annual continuing education
9 requirements referred to in W.S. 40-23-129(a)(ii), a
10 licensed mortgage loan originator shall complete at least
11 eight (8) hours of education approved in accordance with
12 subsection (b) of this section, which shall include at
13 least:

14

15 (i) Three (3) hours of federal law and
16 regulations relating to mortgage origination;

17

18 (ii) Two (2) hours of ethics, which shall
19 include instruction on fraud, consumer protection and fair
20 lending issues; and

21

22 (iii) Two (2) hours of training related to
23 lending standards for the nontraditional mortgage product
24 marketplace.

1

2 (b) For purposes of section (a) of this section,
3 continuing education courses shall be reviewed and approved
4 by the registry. The review and approval of a continuing
5 education course shall include review and approval of the
6 course provider.

7

8 (c) Nothing in this section shall preclude any
9 education course, as approved by the registry, that is
10 provided by the employer of the mortgage loan originator or
11 an entity which is affiliated with the mortgage loan
12 originator by an agency contract, or any subsidiary or
13 affiliate of such employer or entity.

14

15 (d) Continuing education may be offered either in a
16 classroom, online or by any other means approved by the
17 registry.

18

19 (e) A licensed mortgage loan originator:

20

21 (i) Except as provided in W.S. 40-23-129(b),
22 shall only receive credit for a continuing education course
23 in the year in which the course is taken; and

24

1 (ii) Shall not take the same approved course in
2 the same or successive years to meet the annual
3 requirements for continuing education.

4
5 (f) A licensed mortgage loan originator who is an
6 instructor of an approved continuing education course may
7 receive credit for the licensed mortgage loan originator's
8 own annual continuing education requirement at the rate of
9 two (2) hours of credit for every one (1) hour taught.

10

11 (g) An individual having successfully completed the
12 education requirements approved by the registry in
13 paragraphs (a)(i), (ii) and (iii) of this section for any
14 state shall be accepted as credit towards completion of
15 continuing education requirements in Wyoming.

16

17 (h) An individual meeting the requirements of W.S.
18 40-23-129(a)(i) and (iii) may make up any deficiency in
19 continuing education as established by rule of the
20 commissioner.

21

22 (j) An individual licensed under W.S. 40-23-124 after
23 July 1, 2009 and who subsequently applies to be licensed
24 again shall complete the continuing education requirements

1 for the last year in which the license was held prior to
2 issuance of a new or renewed license.

3

4 **40-23-131. Mortgage call reports.**

5

6 Each licensee shall submit to the registry reports of
7 condition, which shall be in such form and shall contain
8 all information as required by the registry.

9

10 **40-23-132. Report to the registry.**

11

12 The commissioner shall regularly report violations of this
13 act, as well as enforcement actions and other relevant
14 information, to the registry subject to the provisions
15 contained in W.S. 40-23-112.

16

17 **40-23-133. Unique identifier; rulemaking.**

18

19 The unique identifier of any person originating a
20 residential mortgage loan shall be clearly shown on all
21 residential mortgage loan applications forms, solicitations
22 or advertisements, including business cards or websites and
23 any other documents as established by rule of the
24 commissioner.

1

2 **Section 2.** W.S. 7-19-106(a) by creating a new
3 paragraph (xx), 7-19-201(a) by creating a new paragraph
4 (xiii), 40-14-120(a)(i), (ii) and by creating a new
5 paragraph (iii), 40-14-121(a)(intro), 40-14-140(a)(xii), by
6 creating a new paragraph (xx) and by renumbering (xx) as
7 (xxi), 40-14-142(a) by creating new paragraphs (lx) through
8 (lxxvi) and by renumbering (lx) as (lxxvii),
9 40-14-204(a)(v), 40-14-304(a)(iv), 40-14-633, 40-14-634(b),
10 40-14-635 by creating a new subsection (h), 40-14-636,
11 40-23-102(a)(v), (vi), (ix), (xv), by creating new
12 paragraphs (xviii) through (xxxiii) and by amending and
13 renumbering (xviii) as (xxxiv), 40-23-103(a)(ii),
14 40-23-104, 40-23-107(b)(ii), (iv), (vi) and by creating a
15 new paragraph (vii), 40-23-109(a), 40-23-110, 40-23-112(b),
16 by creating new subsections (f) through (j) and by
17 renumbering (f) as (k) and 40-23-118 by creating a new
18 subsection (d) are amended to read:

19

20 **7-19-106. Access to, and dissemination of,**
21 **information.**

22

1 (a) Criminal history record information shall be
2 disseminated by criminal justice agencies in this state,
3 whether directly or through any intermediary, only to:

4
5 (xx) The state banking commissioner for purposes
6 of licensing and registration pursuant to W.S. 40-14-642,
7 40-23-103 and 40-23-125.

8
9 **7-19-201. State or national criminal history record**
10 **information.**

11
12 (a) The following persons shall be required to submit
13 to fingerprinting in order to obtain state and national
14 criminal history record information:

15
16 (xiii) Mortgage lenders, mortgage brokers,
17 mortgage loan originators and persons identified in W.S.
18 40-23-107(a)(iii), as necessary to perform the background
19 checks required by W.S. 40-14-642(c)(i), 40-23-103(a)(viii)
20 and 40-23-125(c)(i).

21
22 **40-14-120. Territorial application.**

23

1 (a) Except as otherwise provided in this section,
2 this act applies to consumer credit transactions made in
3 this state. For purposes of this act, a consumer credit
4 transaction is made in this state if:

5

6 (i) A signed writing evidencing the obligation
7 or offer of the consumer is received by the creditor in
8 this state;~~or~~

9

10 (ii) The creditor induces consumers who are
11 residents of this state to enter into credit transactions
12 by a continuous and systematic solicitation either
13 personally or by mail and the goods or money are delivered
14 in this state and payment is made from this state;or

15

16 (iii) The credit transaction is secured by a
17 dwelling, as defined in W.S. 40-14-640(a), located in
18 Wyoming.

19

20 **40-14-121. Exclusions.**

21

22 (a) Except as required by W.S. 40-14-641, this act
23 does not apply to:

24

1 **40-14-140. General definitions.**

2

3 (a) In addition to definitions appearing in
4 subsequent articles, in this act:

5

6 (xii) "Organization" means a sole
7 proprietorship, limited liability company, corporation,
8 government or governmental subdivision or agency, trust,
9 estate, partnership, cooperative, ~~or~~ association or other
10 entity, public or private;

11

12 (xx) "Licensee" means an organization licensed
13 under this act;

14

15 ~~(xx)~~ (xxi) "This act" means W.S. 40-14-101
16 through 40-14-702.

17

18 **40-14-142. Index of definitions.**

19

20 (a) Definitions in this act and the sections in which
21 they appear are:

22

23 (lx) "Channeling agent" - W.S. 40-14-640(a)(i);

24

1 (lxi) "Clerical or support duties" - W.S.

2 40-14-640(a)(ii);

3

4 (lxii) "Depository institution" - W.S.

5 40-14-640(a)(iii);

6

7 (lxiii) "Dwelling" - W.S. 40-14-640(a)(iv);

8

9 (lxiv) "Federal banking agency" - W.S.

10 40-14-640(a)(v);

11

12 (lxv) "Immediate family member" - W.S.

13 40-14-640(a)(vi);

14

15 (lxvi) "Individual" - W.S. 40-14-640(a)(vii);

16

17 (lxvii) "Licensee" - W.S. 40-14-140(a)(xx);

18

19 (lxviii) "Loan processor or underwriter" - W.S.

20 40-14-640(a)(viii);

21

22 (lxix) "Mortgage loan originator" - W.S.

23 40-14-640(a)(ix);

24

1 (lxx) "Nontraditional mortgage product" - W.S.

2 40-14-640(a)(x);

3

4 (lxxi) "Real estate brokerage activity" - W.S.

5 40-14-640(a)(xi);

6

7 (lxxii) "Registered mortgage loan originator" -

8 W.S. 40-14-640(a)(xii);

9

10 (lxxiii) "Registry" - W.S. 40-14-640(a)(xiii);

11

12 (lxxiv) "Residential mortgage loan" - W.S.

13 40-14-640(a)(xiv);

14

15 (lxxv) "Timeshare plan" - W.S. 40-14-640(a)(xv);

16

17 (lxxvi) "Unique identifier" - W.S.

18 40-14-640(a)(xvi);

19

20 ~~(lx)~~ (lxxvii) "This act" - means W.S. 40-14-101

21 through 40-14-702.

22

23 **40-14-204. Definition of "consumer credit sale".**

24

1 (a) Except as provided in subsection (b) of this
2 section, "consumer credit sale" is a sale of goods,
3 services or an interest in land in which:

4
5 (v) With respect to a sale of goods or services,
6 the amount financed does not exceed fifty thousand dollars
7 (\$50,000.00) or the debt is secured by ~~personal property~~
8 ~~used or expected to be used as the principal a~~ dwelling, ~~of~~
9 ~~the buyer~~ as defined in W.S. 40-14-640(a)(iv), located in
10 Wyoming.

11
12 **40-14-304. Definition of "consumer loan".**

13
14 (a) Except with respect to a loan primarily secured
15 by an interest in land, "consumer loan" is a loan made by a
16 person regularly engaged in the business of making loans in
17 which:

18
19 (iv) Either the principal does not exceed fifty
20 thousand dollars (\$50,000.00) or the debt is secured by an
21 interest in land or ~~by personal property used or expected~~
22 ~~to be used as the principal a~~ dwelling, ~~place of the debtor~~
23 as defined in W.S. 40-14-640(a)(iv), located in Wyoming.

24

1 **40-14-633. Crediting of monies.**

2

3 All fees and other monies received by the administrator
4 under the provisions of this act shall be deposited by the
5 administrator with the state treasurer and credited to the
6 consumer credit administration account, except the amount
7 paid for data processing by a national mortgage licensing
8 system and database. The funds deposited in the account
9 under this act shall be subject to appropriation by the
10 legislature to the administrator and shall be expended only
11 to carry out the duties of the administrator. Expenditures
12 shall be made from the account by warrants drawn by the
13 state auditor, upon vouchers issued and signed by the
14 administrator.

15

16 **40-14-634. License required; application; fee;**
17 **conditions and execution; license nontransferable; display;**
18 **renewal.**

19

20 (b) The administrator shall issue a license unless,
21 upon investigation, he finds that the financial
22 responsibility, character and business qualifications of
23 the applicant, and of the members thereof, if the applicant
24 is a partnership or association, and of the officers and

1 directors thereof if the applicant is a corporation, are
2 such as to warrant belief that the business will not be
3 operated honestly and fairly within the purposes of this
4 act. A license shall not be issued if:

5
6 (i) The applicant has been convicted of, pled
7 guilty or nolo contendere to, a felony in a domestic,
8 foreign or military court during the seven (7) year period
9 preceding the date of the application for licensing, or at
10 any time preceding such date of application if such felony
11 involved an act of fraud, dishonesty, breach of trust or
12 money laundering; or

13
14 (ii) The applicant has been convicted of, pled
15 guilty or nolo contendere to a misdemeanor in a domestic,
16 foreign or military court involving an act of fraud,
17 dishonesty, breach of trust or money laundering.

18
19 **40-14-635. Revocation or suspension of license.**

20
21 (h) For purposes of this section, "licensee" shall
22 also mean a licensed mortgage loan originator pursuant to
23 W.S. 40-14-641.

24

1 **40-14-636. Records; confidentiality.**

2

3 (a) For purposes of this section, "licensee" shall
4 also mean a licensed mortgage loan originator pursuant to
5 W.S. 40-14-640.

6

7 (b) Every licensee shall maintain records in a manner
8 that will enable the administrator to determine whether the
9 licensee is complying with the provisions of this act. The
10 administrator may by rule, and in accordance with W.S.
11 40-14-606(c), specify the manner in which records are to be
12 made available. The records need not be kept in the place
13 of business of the licensee, if the administrator is given
14 free access to the records wherever located. The records
15 pertaining to any transaction governed by this act need not
16 be preserved for more than two (2) years after making the
17 final entry relating to the transaction. In the case of a
18 revolving loan account the two (2) years is measured from
19 the date of each entry.

20

21 (c) Except as provided in subsections (d), (e) and
22 (j) of this section, all information or reports obtained by
23 the administrator from an applicant or licensee are
24 confidential.

1

2 (d) Except as provided in P.L. 110-289, section 1512,
3 the requirements under any federal or state law regarding
4 the privacy or confidentiality of any information or
5 material provided to the registry, and any privilege
6 arising under federal or state law, including the rules of
7 any federal or state court, with respect to such
8 information or material, shall continue to apply to such
9 information or material after the information or material
10 has been disclosed to the registry. Such information and
11 any other confidential material obtained by the
12 administrator may be shared with all state and federal
13 regulatory officials with mortgage industry oversight
14 authority without the loss of privilege or the loss of
15 confidentiality protections provided by federal or state
16 law.

17

18 (e) The administrator may enter into cooperative,
19 coordinating or information sharing agreements with any
20 other supervisory agency or any organization affiliated
21 with or representing one (1) or more supervisory agencies
22 with respect to the periodic examination or other
23 supervision of any office in Wyoming of an out-of-state
24 licensee, and the administrator may accept the parties'

1 reports of examination and reports of investigation in lieu
2 of conducting his own examinations or investigations.

3
4 (f) Information or material that is subject to a
5 privilege or confidentiality protection under subsection (d)
6 of this section shall not be subject to:

7
8 (i) Disclosure under any federal or state law
9 governing the disclosure to the public of information held
10 by an officer or agency of the federal government or the
11 respective state; or

12
13 (ii) Subpoena, discovery or admission into
14 evidence, in any private civil action or administrative
15 process, unless with respect to any privilege held by the
16 registry with respect to such information or material, the
17 person to whom such information or material pertains waives
18 that privilege, in whole or in part.

19
20 (g) Any Wyoming law relating to the disclosure of
21 confidential supervisory information or any information or
22 material described in subsection (d) of this section that is
23 inconsistent with subsection (d) of this section shall be
24 superceded by the requirements of this section.

1

2 (h) This section shall not apply with respect to the
3 information or material relating to the employment history
4 of, and publicly adjudicated disciplinary and enforcement
5 actions against, mortgage loan originator that is included
6 in the registry for access by the public.

7

8 (j) The administrator may enter into contracts with
9 any supervisory agency having concurrent jurisdiction over
10 a Wyoming licensee pursuant to this act to engage the
11 services of the agency's examiners at a reasonable rate of
12 compensation. Any contract under this subsection shall not
13 be subject to the provisions of W.S. 9-2-1016(b).

14

15 (k) This section does not prohibit the administrator
16 from disclosing to the public a list of persons licensed
17 under this act.

18

19 **40-23-102. Definitions.**

20

21 (a) As used in this act:

22

23 (v) "Licensee" means a ~~person~~company licensed
24 under this act as a mortgage broker or a mortgage lender;

1

2 (vi) "Mortgage broker" means any ~~person, other~~
3 ~~than those exempt under W.S. 40-23-105~~ company, who for
4 compensation, or in the expectation of compensation,
5 assists a person in obtaining or applying to obtain a
6 residential mortgage loan or holds ~~himself~~ itself out as
7 being able to assist a person in obtaining or applying to
8 obtain a residential mortgage loan;

9

10 (ix) "Mortgage lender" means any ~~person, other~~
11 ~~than those exempt under W.S. 40-23-105~~ company, who makes
12 residential mortgage loans to borrowers or holds ~~himself~~
13 itself out as able to make mortgage loans;

14

15 (xv) "Residential mortgage loan" means a first
16 mortgage loan made primarily for personal, family or
17 household use ~~and primarily secured by a security interest~~
18 ~~on residential real property~~ that is secured by a mortgage,
19 deed of trust or other equivalent consensual security
20 interest on a dwelling or residential real estate in
21 Wyoming upon which is constructed or intended to be
22 constructed a dwelling;

23

1 (xviii) "Channeling agent" means the third party
2 licensing system that gathers the application information
3 and distributes it to Wyoming for review for the approval
4 or denial decision;

5
6 (xix) "Clerical or support duties" means:

7
8 (A) The receipt, collection, distribution
9 and analysis of information common for the processing or
10 underwriting of a residential mortgage loan; and

11
12 (B) Communicating with a consumer to obtain
13 the information necessary for the processing or
14 underwriting of a loan, to the extent that such
15 communication does not include offering or negotiating loan
16 rates or terms, or counseling consumers about residential
17 mortgage loan rates or terms.

18
19 (xx) "Company" means a sole proprietorship,
20 partnership, corporation, limited liability company or
21 other entity, public or private;

22

1 (xxi) "Depository institution" means a company
2 as defined in 12 U.S.C. 1813 of the federal deposit
3 insurance act, and includes any credit union;

4
5 (xxii) "Dwelling" means a residential structure
6 that contains one (1) to four (4) units, whether or not
7 that structure is attached to real property. "Dwelling",
8 if it is used as a residence, includes an individual
9 condominium unit, cooperative unit, mobile home and
10 trailer;

11
12 (xxiii) "Federal banking agency" means the board
13 of governors of the federal reserve system, the comptroller
14 of the currency, the director of the office of thrift
15 supervision, the national credit union administration or
16 the federal deposit insurance corporation;

17
18 (xxiv) "Immediate family member" means a spouse,
19 child, sibling, parent, grandparent, grandchild,
20 stepparent, stepchild, stepsibling and any adoptive
21 relationship included in this paragraph;

22
23 (xxv) "Individual" means a natural person;
24

1 (xxvi) "Loan processor or underwriter" means an
2 individual who performs clerical or support duties as an
3 employee at the direction of and subject to the supervision
4 and instruction of a licensee, or an exempt person under
5 W.S. 40-23-105;

6
7 (xxvii) "Mortgage loan originator":

8
9 (A) Means an individual who for
10 compensation or gain or in the expectation of compensation
11 or gain:

12
13 (I) Takes a residential mortgage loan
14 application; or

15
16 (II) Offers or negotiates the terms of
17 a residential mortgage loan.

18
19 (B) Shall not include any individual
20 engaged solely as a loan processor or underwriter except as
21 otherwise described in W.S. 40-23-124(d);

22
23 (C) Shall not include a person who only
24 performs real estate brokerage activities and is licensed

1 or registered in accordance with Wyoming law, unless the
2 person is compensated by a lender, a mortgage broker or
3 other mortgage loan originator or by any agent of such
4 lender, mortgage broker or other mortgage loan originator;
5 and

6
7 (D) Shall not include a person solely
8 involved in extensions of credit relating to timeshare
9 plans.

10
11 (xxviii) "Nontraditional mortgage product" means
12 any mortgage product other than a thirty (30) year fixed
13 rate mortgage;

14
15 (xxix) "Real estate brokerage activity" means
16 any activity that involves offering or providing real
17 estate brokerage services to the public, including:

18
19 (A) Acting as a real estate agent or real
20 estate broker for a buyer, seller, lessor or lessee of real
21 property;

22

1 (B) Arranging meetings or communicating
2 with any party interested in the sale, purchase, lease,
3 rental or exchange of real property;

4
5 (C) Negotiating, on behalf of any party,
6 any portion of a contract relating to the sale, purchase,
7 lease, rental or exchange of real property, unless the
8 negotiating relates to the financing of these transactions,
9 which shall then constitute engaging in the business as a
10 mortgage loan originator;

11
12 (D) Engaging in any activity for which a
13 person engaged in the activity is required to be registered
14 or licensed as a real estate agent or real estate broker
15 under any applicable law; and

16
17 (E) Offering to engage in any activity, or
18 act in any capacity, described in subparagraph (A), (B),
19 (C) or (D) of this paragraph.

20
21 (xxx) "Registered mortgage loan originator"
22 means any individual who:

23

1 (A) Is registered with, and maintains a
2 unique identifier through, the registry; and

3

4 (B) Meets the definition of mortgage loan
5 originator and is an employee of:

6

7 (I) A depository institution;

8

9 (II) A subsidiary that is:

10

11 (1) Owned and controlled by a
12 depository institution; and

13

14 (2) Regulated by a federal
15 banking agency; or

16

17 (III) An institution regulated by the
18 farm credit administration.

19

20 (xxxi) "Registry" means the nationwide mortgage
21 licensing system and registry which is a mortgage licensing
22 system developed and maintained by the conference of state
23 bank supervisors and the American association of
24 residential mortgage regulators for the licensing and

1 registration of mortgage lenders, mortgage brokers and
 2 mortgage loan originators;

3

4 (xxxii) "Timeshare plan" means as defined in 11
 5 U.S.C. § 101(53D);

6

7 (xxxiii) "Unique identifier" means a number or
 8 other identifier assigned by protocols established by the
 9 registry;

10

11 ~~(xviii)~~ (xxxiv) "This act" means W.S. 40-23-101
 12 through ~~40-23-123~~ 40-23-133.

13

14 **40-23-103. Powers and duties of commissioner.**

15

16 (a) In addition to any other powers and duties
 17 imposed upon the commissioner by law, the commissioner
 18 shall:

19

20 (ii) Order any ~~licensee~~ mortgage broker,
 21 mortgage lender or mortgage loan originator to cease any
 22 activity or practice which the commissioner deems to be
 23 deceptive, dishonest, a violation of state or federal laws

1 or regulations or unduly harmful to the interests of the
2 public;

3

4 **40-23-104. License requirements.**

5

6 (a) With the exception of those persons exempt
7 pursuant to W.S. 40-23-105, on and after July 1, 2005, no
8 ~~person~~ company shall engage in mortgage lending activities
9 or mortgage brokering activities without first obtaining a
10 license in accordance with this act.

11

12 (b) A ~~person~~ company engaged in mortgage lending or
13 mortgage brokering activities ~~who advertises, offers or~~
14 ~~provides services to Wyoming residents through any medium~~
15 ~~including, but not limited to, internet or other electronic~~
16 ~~means~~ with any dwelling located in Wyoming shall first
17 obtain a license in accordance with this act.

18

19 **40-23-107. Application for license to do business as**
20 **a mortgage lender or mortgage broker.**

21

22 (b) An application for license may be granted if the
23 commissioner finds:

24

1 (ii) The applicant has not been convicted of,
2 pled guilty or nolo contendere to, a felony ~~or misdemeanor~~
3 ~~involving any aspect of the mortgage lending business,~~
4 ~~breach of trust or fraudulent or dishonest dealing~~ in a
5 domestic, foreign or military court during the seven (7)
6 year period preceding the date of the application for
7 licensing, or at any time preceding such date of
8 application if such felony involved an act of fraud,
9 dishonesty, breach of trust or money laundering;

10
11 (iv) The applicant has not filed an application
12 for a license which is false or misleading with respect to
13 any material fact; ~~and~~

14
15 (vi) The applicant has provided information on
16 the application as required by the commissioner pursuant to
17 subsection (a) of this section; ~~and~~

18
19 (vii) The applicant has not been convicted of,
20 pled guilty or nolo contendere to a misdemeanor in a
21 domestic, foreign or military court involving an act of
22 fraud, dishonesty, breach of trust or money laundering.

23
24 **40-23-109. License renewal and annual report.**

1

2 (a) Each mortgage broker and mortgage lender license
3 issued under this act shall expire on December 31. The
4 license shall be renewed annually not less than thirty (30)
5 days before the stated expiration date. The renewal fee
6 for each license shall not exceed one thousand dollars
7 (\$1,000.00) for the home office location and an amount not
8 to exceed one hundred dollars (\$100.00) for each additional
9 location, as set by rule of the commissioner.

10

11 **40-23-110. Surety bonds.**

12

13 (a) All licensees shall maintain a surety bond to the
14 state of Wyoming in accordance with this section. The
15 surety bond shall be used to cover individual loan
16 originators employed or under contract with a licensee.
17 The bond to be maintained shall be in the amount:

18

19 (i) Until December 31, 2009, of twenty-five
20 thousand dollars (\$25,000.00). This amount shall be
21 increased by an additional sum of ten thousand dollars
22 (\$10,000.00) for each licensed office;

23

1 (ii) Effective January 1, 2010, as established
2 by rule of the commissioner based upon the volume of
3 business activity transacted by the licensee under this
4 act.

5
6 (b) The surety bond shall be a continuing obligation
7 of the issuing surety. The surety's liability under the
8 bond for any claims made under the bond either individually
9 or in the aggregate shall in no event exceed the face
10 amount of the bond issued. The bond shall be issued by a
11 surety authorized to do business in the state of Wyoming.
12 The bond, including any and all riders and endorsements
13 executed subsequent to the effective date of the bond,
14 shall be placed on file with the commissioner.

15
16 ~~(b)~~(c) In the event that a licensee or person
17 employed by or under contract with a licensee has violated
18 any of the provisions of this act or of a rule or order
19 lawfully made pursuant to this act, or federal law or
20 regulation pertaining to the mortgage lending or mortgage
21 brokering, and has damaged any person by such violation,
22 then the bond shall be forfeited and paid by the surety to
23 the state of Wyoming for the benefit of any person so
24 damaged, in an amount sufficient to satisfy the violation

1 or the bond in its entirety if the violation exceeds the
2 amount of the bond.

3

4 ~~(e)~~(d) Surety bonds shall remain effective
5 continuously until released in writing by the commissioner.
6 If a bond has not been previously released by the
7 commissioner, the bond shall expire two (2) years after the
8 date of the surrender, revocation or expiration of the
9 license.

10

11 **40-23-112. Records; confidentiality of records;**
12 **exception.**

13

14 (b) Except as provided in ~~subsection (e)~~ subsections
15 (c) through (f) of this section, all information or reports
16 obtained by the commissioner from an applicant or licensee
17 are confidential.

18

19 (f) Except as provided in P.L. 110-289, section 1512,
20 the requirements under any federal law or state law
21 regarding the privacy or confidentiality of any information
22 or material provided to the registry, and any privilege
23 arising under federal or state law, including the rules of
24 any federal or state court, with respect to such

1 information or material, shall continue to apply to such
2 information or material after the information or material
3 has been disclosed to the registry. Such information and
4 any other confidential material obtained by the
5 commissioner may be shared with all state and federal
6 regulatory officials with mortgage industry oversight
7 authority without the loss of privilege or the loss of
8 confidentiality protections provided by federal law or any
9 state law.

10
11 (g) Information or material that is subject to a
12 privilege or confidentiality under subsection (f) of this
13 section shall not be subject to:

14
15 (i) Disclosure under any federal or state law
16 governing the disclosure to the public of information held
17 by an officer or agency of the federal government or the
18 respective state; or

19
20 (ii) Subpoena, discovery or admission into
21 evidence, in any private civil action or administrative
22 process, unless with respect to any privilege held by the
23 registry with respect to such information or material, the

1 person to whom such information or material pertains waives
2 that privilege, in whole or in part.

3
4 (h) Any Wyoming law relating to the disclosure of
5 confidential supervisory information or any information or
6 material described in subsection (f) of this section that is
7 inconsistent with subsection (f) of this section shall be
8 superceded by the requirements of this section.

9
10 (j) This section shall not apply with respect to the
11 information or material relating to the employment history
12 of, and publicly adjudicated disciplinary and enforcement
13 actions against, any mortgage loan originator that is
14 included in the registry for access by the public.

15
16 ~~(f)~~(k) This section does not prohibit the
17 commissioner from disclosing to the public a list of
18 persons licensed under this act.

19
20 **40-23-118. License suspension or revocation.**

21
22 (d) For purposes of this section, "licensee" shall
23 also mean a licensed mortgage loan originator pursuant to
24 W.S. 40-23-124.

1

2 **Section 3.** W.S. 40-23-105(a)(v) is repealed.

3

4 **Section 4.** This act is effective July 1, 2009.

5

6

(END)