## Rules of Department of Commerce and Insurance
### Division 1140—Division of Finance
#### Chapter 30—Mortgage Broker and Originator Rules

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Division 1140—Division of Finance
Chapter 30—Mortgage Broker and Originator Rules

20 CSR 1140-30.010 Definitions
(Resinded November 30, 2010)


20 CSR 1140-30.070 Advertising
(Resinded November 30, 2010)


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(Resinded November 30, 2010)


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20 CSR 1140-30.100 General Practices
(Resinded November 30, 2010)


20 CSR 1140-30.110 Commitment and Closing Practices
(Resinded November 30, 2010)


20 CSR 1140-30.120 Exemption Guidelines
(Resinded November 30, 2010)


20 CSR 1140-30.200 Definitions

PURPOSE: This rule establishes the definitions used in 20 CSR II40-30 and 20 CSR II40-31.

(1) The definitions in sections 443.701 to 443.893, RSMo, shall apply to these rules. In addition, the terms listed below shall have the following meanings:

(A) “Act,” the Missouri Secure and Fair Enforcement for Mortgage Licensing and Residential Mortgage Brokers Licensing Act;
PURPOSE: This rule establishes guidelines for the licensing of mortgage loan originators.

(1) Initial Licensing. Application for an initial Mortgage Loan Originator license shall be made within the procedures established by the Nationwide Mortgage Licensing System and Registry (NMLS).

(2) Incomplete Applications. Failure to meet a request for additional information within ten (10) business days may result in denial of the application. A denial under such circumstances shall not affect subsequent applications filed with the appropriate fee.

(3) License Renewal and Expiration. Application for renewal shall be made within the procedures established by NMLS. A renewal application not received by the division prior to December 1 of any year cannot be assured of issuance prior to January 1, at which time the license will be considered to be expired. Any license which is not renewed prior to December 31 may require the applicant to file a reinstatement application as provided for in these rules.

(A) The director may not renew a Mortgage Loan Originator license unless all required fees, administrative penalties owed to the director, and any refunds ordered by the director to be returned to consumers have been paid.

(B) Reinstatement of License. The license of a mortgage loan originator that expires for failure to satisfy the minimum standards for renewal or does not allow for sufficient lead time for review and processing of an application may be reinstated if the licensee meets the following requirements:

(A) The licensee must submit a request for reinstatement through the NMLS;

(B) All continuing education courses and any other requirements for the license renewal for the year in which the license expired must be completed; and

(C) The licensee must pay the applicable licensing, reinstatement, and late fees/penalties.

1. If the mortgage loan originator whose license has expired fails to meet the requirements for reinstatement specified in this section and submits a reinstatement filing within the parameters established by NMLS, the mortgage loan originator must apply for a new license and meet the requirements for licensure in effect at that time.

2. The director may waive any late filing penalty or fee for a licensed mortgage loan originator on active military duty serving outside of Missouri.

(5) Fees.

(A) Initial and renewal applications shall be made through the NMLS and shall be accompanied by the applicable fee, which shall be set by the director from time-to-time, not to exceed two hundred fifty dollars ($250). Said fees are not refundable.

(B) For each duplicate original license issued, the director shall collect a duplicate original license fee not to exceed one hundred fifty dollars ($150).

(C) For each amended license issued, the director shall collect an amended original license fee not to exceed one hundred fifty dollars ($150).

(D) A late fee, not to exceed one hundred fifty dollars ($150), may be assessed to any mortgage loan originator who fails to submit a renewal application by December 31 of each year.


in which a professional license is required shall be considered a revocation for the purposes of this rule.


20 CSR 1140-30.230 Challenges to Information Submitted to NMLSR

PURPOSE: This rule establishes the procedures by which a mortgage loan originator can challenge information submitted by the director to the Nationwide Mortgage Licensing System and Registry.

(A) Prior to initial licensure or renewal, each applicant for a broker’s license shall create a company/business account/record or otherwise register through the NMLSR or its successor(s), in order to obtain a unique or other identifier assigned by protocols established by the NMLSR. Applicants shall continue to satisfy the requirements set forth by the NMLSR in order to keep its company/business account/record in current or active status, including but not limited to the payment of any applicable fees.

(B) Applicants for initial licensure or renewal shall apply through the NMLSR on forms acceptable to the director and shall be verified by the oath or affirmation of the applicant or a principal officer thereof. In addition to the documents and information required by law or rule, the director may require additional information in order to enable the director to determine that the applicant meets or the licensee continues to meet the requirements of the Missouri Secure and Fair Enforcement for Mortgage Licensing and Residential Mortgage Brokers Licensing Act. Where the NMLSR does not make available submission of any document or report required or permitted by law to be filed with the director, an applicant shall directly submit such information to the director in the format requested.

(C) Notwithstanding a licensee’s biennial renewal anniversary date, each licensee shall annually attest to the completeness, truthfulness, and accuracy of its company/business account/record during the annual year-end renewal period established by the NMLSR. Failure to do so shall result in the suspension of the broker’s license.


20 CSR 1140-30.240 Operations and Supervision of Residential Mortgage Loan Brokers

PURPOSE: This rule establishes procedures and guidelines for the licensing of residential mortgage loan brokers and the fees associated therewith.

(A) Prior to initial licensure or renewal, each applicant for a broker’s license shall create a company/business account/record or otherwise register through the Nationwide Mortgage Licensing System and Registry (NMLSR), or active status, including but not limited to the payment of any applicable fees.

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(A) Prior to initial licensure or renewal, each applicant for a broker’s license shall create a company/business account/record or otherwise register through the NMLSR or its successor(s), in order to obtain a unique or other identifier assigned by protocols established by the NMLSR. Applicants shall continue to satisfy the requirements set forth by the NMLSR in order to keep its company/business account/record in current or active status, including but not limited to the payment of any applicable fees.

(B) Applicants for initial licensure or renewal shall apply through the NMLSR on forms acceptable to the director and shall be verified by the oath or affirmation of the applicant or a principal officer thereof. In addition to the documents and information required by law or rule, the director may require additional information in order to enable the director to determine that the applicant meets or the licensee continues to meet the requirements of the Missouri Secure and Fair Enforcement for Mortgage Licensing and Residential Mortgage Brokers Licensing Act. Where the NMLSR does not make available submission of any document or report required or permitted by law to be filed with the director, an applicant shall directly submit such information to the director in the format requested.

(C) Notwithstanding a licensee’s biennial renewal anniversary date, each licensee shall annually attest to the completeness, truthfulness, and accuracy of its company/business account/record during the annual year-end renewal period established by the NMLSR. Failure to do so shall result in the suspension of the broker’s license.

(2) Initial Licensing. Applications for an initial broker’s license shall be in a form prescribed by the director and shall include a nonrefundable license investigation fee which shall be set by the director from time-to-time, not to exceed one thousand five hundred dollars ($1,500). A broker must report any change in directors or principal officers within thirty (30) days to the director.

(D) Each licensee who intends to operate and maintain an additional full-service office shall file a Notice of Intent to Establish an Additional Full-Service Office on a form prescribed by the director, thirty (30) days prior to the proposed operation; the director shall collect a fee not to exceed one hundred fifty dollars ($150). A broker must report any change in directors or principal officers within thirty (30) days to the director.


20 CSR 1140-30.250 Change in Business Activities

PURPOSE: This rule establishes procedures and guidelines for mortgage loan brokers to follow in the event there is a change in their respective business activities and the fees and notice requirements associated therewith.

(1) A broker shall return his/her license to the director within ten (10) days upon a licensee closing a full-service office or his/her decision to discontinue brokering, originating, or servicing.

(2) Prior to a change of ownership or control, a broker and/or a prospective purchaser shall submit an application on a form prescribed by the director, which shall be submitted with the applicable fee not to exceed one hundred fifty dollars ($150) at least forty-five (45) days prior to the proposed change. All proposed changes must be approved by the director. Failure to obtain the director’s prior approval may result in administrative action against the broker’s license.

(3) A broker shall file an Application for Change of Name or Address, with the applicable fee, ten (10) business days in advance, on a form prescribed by the director. The name change shall be approved unless deceptively similar to another name or is otherwise prohibited by law.


20 CSR 1140-30.260 Full-Service Office Requirement

PURPOSE: This rule establishes operations and supervision guidelines concerning the full in-state service office requirement.

(1) Each broker shall maintain at least one (1) full-service office located in Missouri consistent with sections 443.703.1(12) and 443.857, RSMo. At a minimum, each Missouri office must be staffed by one (1) supervised licensed mortgage loan originator and such staff as is needed to efficiently administer the tasks mandated by section 443.703.1(12), RSMo. The office location shall have a street address and shall not be a post office box or similar designation and shall be the address where the director is to send all correspondence, official notices, and orders; the broker shall be responsible for keeping the director informed of any changes in said address. In determining whether a broker handles such matters in a reasonably adequate manner, the director may consider consumer complaints received regarding said broker, information obtained from examinations conducted by the division, and reports filed with the division. If it is determined that a broker is not in compliance with section 443.857, RSMo, the director shall notify the broker in writing detailing the requirements to achieve compliance, along with a reasonable deadline.

(A) Each full-service office shall also comply with any applicable local zoning ordinances and shall post any occupational licenses required by law or regulation.


20 CSR 1140-30.270 Maintenance of Records

PURPOSE: This rule establishes guidelines for the maintenance of required records to be kept by residential mortgage loan brokers and the penalty for failure to do so.

(1) Each broker shall maintain an application log and shall produce it for examination by the director. It shall contain at least the following concerning each residential mortgage loan application received during the previous thirty-six (36) months:

(A) Full name of all applicants;

(B) Date of application;

(C) Name of the mortgage loan originator responsible for the loan application whose name and Nationwide Mortgage Licensing System and Registry (NMLS) unique identifier also appears on the application;

(D) Disposition of the mortgage loan application and date of disposition. The log shall indicate the result of the loan transaction. The disposition of the application shall be categorized as one (1) of the following: loan closed, loan denied, application withdrawn, application in process, or other explanation;

(E) Address of the property;

(F) Amount of the loan; and

(G) The terms of the loan and/or loan program.

(2) An application log shall be maintained at the broker’s main Missouri office. The log shall be kept current. Records may be kept at a branch, but the broker’s main Missouri office must have a current log updated less frequently than every seven (7) days. The failure to enter said information to the log within seven (7) days from the date of the occurrence of the event required to be recorded in the log shall be deemed a failure to keep the log current.

(3) Failure to maintain an application log or to keep the log current may be grounds for suspension or revocation of the license or other appropriate administrative action and may subject the broker to fines authorized by the Secure and Fair Enforcement Mortgage Licensing Act of 2008.


20 CSR 1140-30.280 Authorized Advance Fees and Escrow Requirements

PURPOSE: This rule establishes general practices and guidelines for residential mortgage loan brokers with regard to what advance fees may be collected and placement of said fees. This rule also sets forth guidelines for the collection and disbursement of rate-lock fees.

(1) A broker shall not require a borrower to pay any fees or charges prior to the loan closing, except for:
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20 CSR 1140-30

(A) The actual and necessary charges of third parties needed to process the application, which shall be administered pursuant to this rule; and

(B) A rate-lock fee, provided that the written rate-lock fee agreement signed by both the borrower and the proposed lender includes the following terms:

1. The expiration date of the fee agreement;
2. The amount of the loan;
3. The maximum interest rate and maximum discount (points);
4. The term of the loan;
5. The lender is able to perform under the terms of the fee agreement; and
6. Subject to verification, the information submitted by the borrower indicates that the loan will be approved in accordance with the fee agreement.

(2) Refunds on Failure to Close. The rate-lock fee must be refunded if the loan does not close in accordance with the fee agreement, except that the fee may be retained upon the lender’s ability to demonstrate to the director any of the following reasons: the borrower withdrew the loan application; made a material misrepresentation on the loan application; or failed to provide documentation necessary to the processing or closing of the loan, such documents having been timely requested. When the fee is to be retained, the lender shall send a written notice to the borrower stating the reason for retaining the fee.

(3) Brokers Failure to Close. If a residential mortgage loan is not closed through no fault of the applicant, all the charges shall be refunded to the borrower, except to the extent such charges were incurred in good faith by the lender on behalf of the borrower for third-party services.

(4) Nothing in these rules shall be construed as to allow a broker, that is not a lender, to charge a fee for a rate-lock agreement or otherwise enter into a rate-lock agreement.

(5) Escrow. Brokers, not subject to the Department of Housing and Urban Development escrow regulations, who receive funds that are to be used for actual and necessary third-party expenses needed to process the application shall place said funds with one of the following:

(A) A title insurer, title agency, or title agent not affiliated with a title agency that is authorized to act as an escrow, security, settlement, or closing agent pursuant to Chapter 381, RSMo;

(B) An unaffiliated depository institution as defined in section 443.703.1(5), RSMo, or first-tier subsidiary or service corporation thereof that is acting as an escrow agent as defined by section 443.703.1(9), RSMo; or

(C) A licensed attorney.


20 CSR 1140-30.290 In-State Office Waiver For Servicers

PURPOSE: This rule establishes the procedures and qualifications needed for servicers to obtain a waiver for the full in-state service office requirement.

(1) Procedures to Obtain Waiver. Prior to the issuance of a waiver pursuant to section 443.812.5, RSMo, of the requirement of maintaining a full-service office in Missouri, an applicant shall obtain a certificate of authority from the Missouri secretary of state. Furthermore, an applicant shall file with the license application an irrevocable consent in a form to be determined by the director, duly acknowledged, that provides suits and actions that may be commenced against the applicant in the courts of this state, and, should it be necessary to bring an action against the applicant, agrees that venue shall lie in Cole County, Missouri.

(2) Qualifications for Waiver. For the purposes of determining if a loan servicer qualifies for the waiver set forth in section 443.812.5, RSMo, the term “primarily engaged in servicing residential mortgage loans” shall be defined as a residential loan servicer that derives seventy-five percent (75%) or more of its gross income from Missouri from residential loan servicing.


20 CSR 1140-30.310 Bonding Requirements

PURPOSE: This rule establishes procedures and requirements for residential mortgage loan brokers to follow.

(1) Annual Review and Initial Schedule. The principal amount of the surety bond shall be determined annually by the information contained in the broker’s Annual Report of Residential Mortgage Loan Broker Activity that contains the information mandated by section 443.885, RSMo. If any category(ies) requested has nothing to report, then the proper response is “none.”

(A) The Annual Report of Residential Mortgage Loan Broker Activity shall include the names of the mortgage loan originators and the dollar amount originated by each individual. It shall also include the dollar amount of the loans and with whom the broker had mortgage brokerage agreements including the aggregate dollar amount of loans brokered, funded, and serviced in the state of Missouri for the previous year. Each broker that reports any default or foreclosure shall also furnish the name of the lender who originated the loan.

(B) Brokers that file a Home Mortgage Disclosure Act Report may file a copy thereof in lieu of the report described herein.

(C) Each annual report shall be accompanied by an affidavit, attesting to truthfulness of the information contained therein.


bond shall be based on the category that results in the highest bonding amount. The initial bonding schedule is as follows:

<table>
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<tr>
<th>Dollar Amount of Loans Brokered/Funded/Serviced For Previous Year</th>
<th>Bond Amounts For Loans Brokered</th>
<th>Bond Amounts For Loans Funded</th>
<th>Bond Amounts For Loans Serviced</th>
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<tr>
<td>$7,500,000 or less</td>
<td>$50,000</td>
<td>$50,000</td>
<td>$50,000</td>
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<tr>
<td>$7,500,001–$15,000,000</td>
<td>$50,000</td>
<td>$100,000</td>
<td>$100,000</td>
</tr>
<tr>
<td>$15,000,001–$22,500,000</td>
<td>$75,000</td>
<td>$150,000</td>
<td>$150,000</td>
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<tr>
<td>$22,500,001–$30,000,000</td>
<td>$100,000</td>
<td>$200,000</td>
<td>$200,000</td>
</tr>
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<td>$30,000,001–$45,000,000</td>
<td>$150,000</td>
<td>$300,000</td>
<td>$300,000</td>
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<td>$45,000,001–$60,000,000</td>
<td>$200,000</td>
<td>$400,000</td>
<td>$400,000</td>
</tr>
<tr>
<td>$60,000,001 or more</td>
<td>$250,000</td>
<td>$500,000</td>
<td>$500,000</td>
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(A) Any increased surety bond as required above shall be filed with the director on or before May 1. Failure to do so shall be grounds for summary suspension of a broker’s license.

(B) Surety bonds provided to the director are deemed to be records of the division and will not be released or returned to licensees or to the entities by which they were issued.


20 CSR 1140-30.320 Exempt List

PURPOSE: This rule establishes procedures and requirements for exempt companies to register with the director.

(1) Registration. The director requests that all exempt entities file a letter disclosing exempt status and the reason therefore at the Division of Finance, Residential Mortgage Section, PO Box 716, Jefferson City, MO 65102. There shall be no fee for said filing.