

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO. _____

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 pre-licensing education;
11 providing for continuing education; requiring testing;
12 providing for license renewal; requiring fees; making

1 conforming amendments; repealing a license exemption; and
2 providing for an effective date.

3

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

5

6 **Section 1.** W.S. 40-14-637 through 40-14-649 and
7 40-23-124 through 40-23-133 are created to read:

8

9 **40-14-637. Surety bonds.**

10

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

19

20 (b) The surety bond shall be a continuing obligation
21 of the issuing surety. The surety's liability under the
22 bond for any claims made under the bond either individually
23 or in the aggregate shall in no event exceed the face

1 amount of the bond issued. The bond shall be issued by a
2 surety authorized to do business in the state of Wyoming.
3 The bond, including any and all riders and endorsements
4 executed subsequent to the effective date of the bond,
5 shall be placed on file with the commissioner.

6

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

18

19 (d) Surety bonds shall remain effective continuously
20 until released in writing by the commissioner. If a bond
21 has not been previously released by the commissioner, the
22 bond shall expire two (2) years after the date of the
23 surrender, revocation or expiration of the license.

1

2 **40-14-638. Mortgage call reports.**

3

4 Each licensee employing or contracting with a mortgage loan
5 originator shall submit to the registry reports of
6 condition, which shall be in such form and shall contain
7 such information as required by the registry.

8

9 **40-14-639. Report to the registry.**

10

11 The commissioner shall regularly report violations of this
12 act relating to transactions conducted by mortgage loan
13 originators, as well as enforcement actions and other
14 relevant information, to the registry subject to the
15 provisions contained in W.S. 40-14-636.

16

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

18

19 **40-14-640. Additional definitions.**

20

21 (a) As used in this part:

22

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

22

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

7
8 (v) "Federal banking agency" means the board of
9 governors of the federal reserve system, the comptroller of
10 the currency, the director of the office of thrift
11 supervision, the national credit union administration or
12 the federal deposit insurance corporation;

13
14 (vi) "Immediate family member" means a spouse,
15 child, sibling, parent, grandparent, grandchild,
16 stepparent, stepchild, stepsibling and any adoptive
17 relationship included in this paragraph;

18
19 (vii) "Individual" means a natural person;

20
21 (viii) "Loan processor or underwriter" means an
22 individual who performs clerical or support duties as an
23 employee at the direction of and subject to the supervision

1 and instruction of a licensee, or an exempt person under
2 W.S. 40-14-121;

3

4 (ix) "Mortgage loan originator":

5

6 (A) Means an individual who for
7 compensation or gain or in the expectation of compensation
8 or gain:

9

10 (I) Takes a residential mortgage loan
11 application; or

12

13 (II) Offers or negotiates the terms of
14 a residential mortgage loan.

15

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

19

20 (C) Shall not include a person who only
21 performs real estate brokerage activities and is licensed
22 or registered in accordance with Wyoming law, unless the
23 person is compensated by a lender, a mortgage broker or

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

4

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

8

9 (x) "Nontraditional mortgage product" means any
10 mortgage product other than a thirty (30) year fixed rate
11 mortgage;

12

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

16

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

20

21 (B) Arranging meetings or communicating
22 with any party interested in the sale, purchase, lease,
23 rental or exchange of real property;

1

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

8

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

13

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

17

18 (xii) "Registered mortgage loan originator"
19 means any individual who:

20

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

23

1 (B) Meets the definition of mortgage loan
2 originator and is an employee of:

3

4 (I) An institution regulated by the
5 farm credit administration;

6

7 (II) A depository institution; or

8

9 (III) 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.

16

17 (xiii) "Registry" means the nationwide mortgage
18 licensing system and registry which is a mortgage licensing
19 system developed and maintained by the conference of state
20 bank supervisors and the American association of
21 residential mortgage regulators for the licensing and
22 registration of mortgage lenders, mortgage brokers and
23 mortgage loan originators;

1

2 (xiv) "Residential mortgage loan" means a loan,
3 other than a loan primarily secured by an interest in land
4 as defined in W.S. 40-14-305, made primarily for personal,
5 family or household use that is secured by a mortgage, deed
6 of trust or other equivalent consensual security interest
7 on a dwelling or residential real estate upon which is
8 constructed or intended to be constructed a dwelling;

9

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

12

13 (xvi) "Unique identifier" means a number or
14 other identifier assigned by protocols established by the
15 registry.

16

17 **40-14-641. Loan originator licensing; registration;**
18 **rulemaking.**

19

20 (a) An individual, unless specifically exempted under
21 subsection (c) of this section, shall not engage in the
22 business of a mortgage loan originator for any dwelling
23 located in Wyoming without first obtaining and maintaining

1 annually a license in accordance with this act. Each
2 licensed mortgage loan originator shall register with and
3 maintain a valid unique identifier issued by the registry.
4

5 (b) In order to facilitate an orderly transition to
6 licensing and minimize disruption in the marketplace, the
7 effective date for subsection (a) of this section shall be
8 July 1, 2010.
9

10 (c) An individual is exempt from subsection (a) of
11 this section if he is:
12

13 (i) A registered mortgage loan originator, when
14 acting for an entity described in W.S.
15 40-14-640(a)(xii)(B)(I), (II) or (III);
16

17 (ii) Any individual who offers or negotiates
18 terms of a residential mortgage loan with or on behalf of
19 an immediate family member of the individual;
20

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

1

2 (iv) A licensed attorney who negotiates the
3 terms of a residential mortgage loan on behalf of a client
4 as an ancillary matter to the attorney's representation of
5 the client, unless the attorney is compensated by a lender,
6 a mortgage broker or other mortgage loan originator or by
7 any agent of such lender, mortgage broker or other mortgage
8 loan originator;

9

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

18

19 (d) A loan processor or underwriter who is an
20 independent contractor shall not engage in the activities
21 of a loan processor or underwriter unless the independent
22 contractor loan processor or underwriter obtains and
23 maintains a license pursuant to subsection (a) of this

1 section. Each independent contractor loan processor or
2 underwriter licensed as a mortgage loan originator shall
3 have and maintain a valid unique identifier issued by the
4 registry.

5

6 (e) For the purpose of implementing an orderly and
7 efficient licensing process the commissioner may establish
8 licensing rules or regulations and interim procedures for
9 licensing and acceptance of applications.

10

11 **40-14-642. Loan originator application; processing.**

12

13 (a) Applicants for a mortgage loan originator license
14 shall apply in a form prescribed by the commissioner. Each
15 application form shall contain content as established by
16 the commissioner and may be changed or updated as necessary
17 by the commissioner in order to carry out the purposes of
18 this act.

19

20 (b) In order to fulfill the purposes of this act, the
21 commissioner may establish relationships or contract with
22 the registry or any other entity designated by the registry
23 to collect and maintain records and process transaction

1 fees or other fees related to licensees or other persons
2 subject to this act.

3

4 (c) In connection with an application for licensing
5 as a mortgage loan originator, the applicant shall, at a
6 minimum, furnish to the registry information concerning the
7 applicant's identity, including:

8

9 (i) Fingerprints for submission to the federal
10 bureau of investigation, and any governmental agency or
11 entity authorized to receive such information for a state,
12 national and international criminal history background
13 check; and

14

15 (ii) Personal history and experience, including
16 the submission of authorization for the registry and the
17 commissioner to obtain:

18

19 (A) An independent credit report obtained
20 from a consumer reporting agency described in section
21 603(p) of the Fair Credit Reporting Act; and

22

1 (B) Information related to any
2 administrative, civil or criminal findings by any
3 governmental jurisdiction.
4

5 (d) For the purposes of this section and in order to
6 reduce the points of contact which the federal bureau of
7 investigation may have to maintain for purposes of
8 paragraph (c)(i) of this section and subparagraph
9 (c)(ii)(B) of this section, the commissioner may use the
10 registry as a channeling agent for requesting information
11 from and distributing information to the department of
12 justice or any governmental agency.
13

14 (e) For the purposes of this section and in order to
15 reduce the points of contact which the commissioner may
16 have to maintain for purposes of subparagraphs (c)(ii)(A)
17 and (B) of this section, the commissioner may use the
18 registry as a channeling agent for requesting and
19 distributing information to and from any source as directed
20 by the commissioner.
21

22 (f) Each application submitted under subsection (a)
23 of this section shall be accompanied by an application fee

1 not to exceed three hundred dollars (\$300.00), as
2 established by rule of the commissioner. When an
3 application for licensure is denied or withdrawn, the
4 commissioner shall retain all fees paid by the applicant.

5

6 **40-14-643. Issuance of loan originator licenses.**

7

8 (a) The commissioner shall not issue a mortgage loan
9 originator license unless the commissioner makes at a
10 minimum the following findings:

11

12 (i) The applicant has not had a mortgage loan
13 originator license revoked in any governmental
14 jurisdiction, except that a subsequent formal vacation of
15 such revocation shall not be deemed a revocation;

16

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

20

21 (A) During the seven (7) year period
22 preceding the date of the application for licensing and
23 registration; or

1

2 (B) At any time preceding the date of
3 application, if the felony involved an act of fraud,
4 dishonesty, or a breach of trust or money laundering.

5

6 (C) Any pardon of a conviction shall not be
7 a conviction for the purposes of this paragraph.

8

9 (iii) The applicant has demonstrated financial
10 responsibility, character and general fitness such as to
11 command the confidence of the community and to warrant a
12 determination that the mortgage loan originator will
13 operate honestly, fairly and efficiently within the
14 purposes of this act;

15

16 (iv) The applicant has completed the
17 pre-licensing education requirement pursuant to W.S.
18 40-14-644.

19

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

22

1 (b) For purposes of paragraph (a)(iii) of this
2 section, a person has shown that he is not financially
3 responsible when he has shown a disregard in the management
4 of his own financial condition. A determination that an
5 individual has not shown financial responsibility shall
6 include, but not be limited to:

7
8 (i) Having any outstanding judgment, except a
9 judgment solely as a result of medical expenses;

10
11 (ii) Having any outstanding tax lien or other
12 government lien;

13
14 (iii) Having any foreclosure within the past
15 three (3) years;

16
17 (iv) Having a pattern of seriously delinquent
18 accounts within the past three (3) years.

19
20 (c) Upon written request, an applicant is entitled to
21 a hearing on the question of his qualifications for a
22 license if:

23

1 (i) The commissioner has notified the applicant
2 in writing that his application has been denied, or
3 objections to the application have been filed with the
4 commissioner;

5

6 (ii) The commissioner has not issued a license
7 within sixty (60) days after a complete application for the
8 license was filed.

9

10 (d) If a hearing is held, the applicant and those
11 filing objections shall reimburse, pro rata, the
12 commissioner for his reasonable and necessary expenses
13 incurred as a result of the hearing. Notwithstanding any
14 provision under the Wyoming Administrative Procedure Act, a
15 request for hearing shall not be made more than fifteen
16 (15) days after the applicant has received notification by
17 certified mail that the application has been denied and
18 stating in substance the commissioner's finding supporting
19 denial of the application or that objections have been
20 filed and the substance thereof.

21

22 **40-14-644. Pre-licensing and re-licensing education**
23 **of loan originators.**

1

2 (a) In order to meet the pre-licensing education
3 requirement referred to in W.S. 40-14-643(a)(iv), a person
4 shall complete at least twenty (20) hours of education
5 approved in accordance with subsection (b) of this section,
6 which shall include at least:

7

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

10

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

14

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

18

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

1

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

8

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

12

13 (e) The pre-licensing education requirements approved
14 by the registry in paragraphs (a)(i), (ii) and (iii) of
15 this section for any state shall be accepted as credit
16 towards completion of pre-licensing education requirements
17 in Wyoming.

18

19 (f) An individual licensed under this act after July
20 1, 2009 and who subsequently applies to be licensed again:

21

22 (i) Shall not have to complete pre-licensing
23 education requirements;

1

2

3

4

5

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

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23

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

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

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

(i) Ethics;

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

1

2 (iii) Wyoming law and regulation pertaining to

3 mortgage origination; and

4

5 (iv) Federal and Wyoming law and regulation,

6 including instruction on fraud, consumer protection, the

7 nontraditional mortgage marketplace and fair lending

8 issues.

9

10 (c) Nothing in this section shall prohibit a test

11 provider from providing a test at the location of the

12 employer of the applicant, the location of any subsidiary

13 or affiliate of the employer of the applicant or the

14 location of any entity with which the applicant holds an

15 exclusive arrangement to conduct the business of a mortgage

16 loan originator.

17

18 (d) An individual shall not be considered to have

19 passed a qualified written test unless the individual

20 achieves a test score of not less than seventy-five percent

21 (75%) correct answers to test questions.

22

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

4

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

8

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

14

15 **40-14-646. Standards for loan originator license**
16 **renewal; rulemaking.**

17

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

20

21 (i) The mortgage loan originator continues to
22 meet the minimum standards for license issuance under W.S.
23 40-14-643(a)(i) through (v).

1

2 (ii) The mortgage loan originator has satisfied
3 the annual continuing education requirements described in
4 W.S. 40-14-647.

5

6 (iii) The mortgage loan originator has paid the
7 license renewal fee not to exceed three hundred dollars
8 (\$300.00), as established by rule of the commissioner.

9

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

17

18 **40-14-647. Continuing education for mortgage loan**
19 **originators; rulemaking.**

20

21 (a) In order to meet the annual continuing education
22 requirements required by W.S. 40-14-646(a)(ii), a licensed
23 mortgage loan originator shall complete at least eight (8)

1 hours of education approved in accordance with subsection
2 (b) of this section, which shall include at least:

3

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

6

7 (ii) Two (2) hours of ethics, which shall
8 include instruction on fraud, consumer protection and fair
9 lending issues; and

10

11 (iii) Two (2) hours of training related to
12 lending standards for the nontraditional mortgage product
13 marketplace.

14

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

20

21 (c) Nothing in this section shall preclude any
22 education course, as approved by the registry, that is
23 provided by the employer of the mortgage loan originator or

1 an entity which is affiliated with the mortgage loan
2 originator by an agency contract, or any subsidiary or
3 affiliate of such employer or entity.

4

5 (d) Continuing education may be offered either in a
6 classroom, online or by any other means approved by the
7 registry.

8

9 (e) A licensed mortgage loan originator:

10

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

14

15 (ii) Shall not take the same approved course in
16 the same year or successive years to meet the annual
17 requirements for continuing education.

18

19 (f) A licensed mortgage loan originator who is an
20 instructor of an approved continuing education course may
21 receive credit for the licensed mortgage loan originator's
22 own annual continuing education requirement at the rate of
23 two (2) hours credit for every one (1) hour taught.

1

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

7

8 (h) An individual meeting the requirements of W.S.
9 40-14-646(a)(i) and (iii) may make up any deficiency in
10 continuing education as established by rule of the
11 commissioner.

12

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

18

19 **40-14-648. Authority to require license.**

20

21 (a) In addition to any other duties imposed upon the
22 commissioner by law, the commissioner shall require
23 mortgage loan originators to be licensed and registered

1 through the registry. In order to carry out this
2 requirement the commissioner may participate in the
3 registry. For this purpose, the commissioner may establish
4 by rule any requirements as necessary, including but not
5 limited to:

6

7 (i) Background checks for:

8

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

11

12 (B) Civil or administrative records;

13

14 (C) Credit history; or

15

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

18

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

21

1 (iii) Requirements for amending or surrendering
2 a license or any other such activities as the commissioner
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 commissioner.

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.

1

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

6

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

9

10 (i) A registered mortgage loan originator, when
11 acting for an entity described in W.S.
12 40-23-102(a)(xxx)(B)(I), (II) or (III);

13

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

17

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

21

22 (iv) A licensed attorney who negotiates the
23 terms of a residential mortgage loan on behalf of a client

1 as an ancillary matter to the attorney's representation of
2 the client, unless the attorney is compensated by a lender,
3 a mortgage broker or other mortgage loan originator or by
4 any agent of such lender, mortgage broker or other mortgage
5 loan originator;

6

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

15

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

1 have and maintain a valid unique identifier issued by the
2 registry.

3

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

8

9 **40-23-125. Loan originator application; processing.**

10

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

17

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

1

2 (c) In connection with an application for licensing
3 as a mortgage loan originator, the applicant shall, at a
4 minimum, furnish to the registry information concerning the
5 applicant's identity, including:

6

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

12

13 (ii) Personal history and experience, including
14 the submission of authorization for the registry and the
15 commissioner to obtain:

16

17 (A) An independent credit report obtained
18 from a consumer reporting agency described in section
19 603(p) of the Fair Credit Reporting Act; and

20

21 (B) Information related to any
22 administrative, civil or criminal findings by any
23 governmental jurisdiction.

1

2 (d) For the purposes of this section and in order to
3 reduce the points of contact which the federal bureau of
4 investigation may have to maintain for purposes of
5 paragraph (c)(i) of this section and subparagraph
6 (c)(ii)(B) of this section, the commissioner may use the
7 registry as a channeling agent for requesting information
8 from and distributing information to the department of
9 justice or any governmental agency.

10

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

18

19 (f) Each application submitted under subsection (a)
20 of this section shall be accompanied by an application fee
21 not to exceed three hundred dollars (\$300.00), as
22 established by rule of the commissioner. When an

1 application for licensure is denied or withdrawn, the
2 commissioner shall retain all fees paid by the applicant.

3

4 **40-23-126. Issuance of loan originator license.**

5

6 (a) The commissioner shall not issue a mortgage loan
7 originator license unless the commissioner makes at a
8 minimum the following findings:

9

10 (i) The applicant has never had a mortgage loan
11 originator license revoked in any governmental
12 jurisdiction, except that a subsequent formal vacation of
13 such revocation shall not be deemed a revocation;

14

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

18

19 (A) During the seven (7) year period
20 preceding the date of the application for licensing and
21 registration; or

22

1 (B) At any time preceding the date of
2 application, if the felony involved an act of fraud,
3 dishonesty, or a breach of trust or money laundering;
4

5 (C) A pardon of a conviction shall not be a
6 conviction for the purposes of this paragraph.
7

8 (iii) The applicant has demonstrated financial
9 responsibility, character and general fitness such as to
10 command the confidence of the community and to warrant a
11 determination that the mortgage loan originator will
12 operate honestly, fairly and efficiently within the
13 purposes of this act;
14

15 (iv) The applicant has completed the
16 pre-licensing education requirement pursuant to W.S.
17 40-23-127;
18

19 (v) The applicant has passed a written test that
20 meets the test requirement of W.S. 40-23-128.
21

22 (b) For purposes of paragraph (a)(iii) of this
23 section, a person has shown that he is not financially

1 responsible when he has shown a disregard in the management
2 of his own financial condition. A determination that an
3 individual has not shown financial responsibility shall
4 include, but not be limited to:

5

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

8

9 (ii) Having any outstanding tax lien or other
10 government lien;

11

12 (iii) Having any foreclosure within the past
13 three (3) years;

14

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

17

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

21

22 (i) The commissioner has notified the applicant
23 in writing that his application has been denied, or

1 objections to the application have been filed with the
2 commissioner;

3

4 (ii) The commissioner has not issued a license
5 within sixty (60) days after a complete application for the
6 license was filed.

7

8 (d) If a hearing is held, the applicant and those
9 filing objections shall reimburse, pro rata, the
10 commissioner for his reasonable and necessary expenses
11 incurred as a result of the hearing. Notwithstanding any
12 provision under the Wyoming Administrative Procedure Act, a
13 request for hearing shall not be made more than fifteen
14 (15) days after the applicant has received notification by
15 certified mail that the application has been denied and
16 stating in substance the commissioner's finding supporting
17 denial of the application or that objections have been
18 filed and the substance thereof.

19

20 **40-23-127. Pre-licensing and re-licensing education**
21 **of loan originators.**

22

1 (a) In order to meet the pre-licensing education
2 requirement referred to in W.S. 40-23-126(a)(iv), a person
3 shall complete at least twenty (20) hours of education
4 approved in accordance with subsection (b) of this section,
5 which shall include at least:

6

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

9

10 (ii) Three (3) 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 pre-licensing education courses shall be reviewed and
20 approved by the registry. The review and approval of a
21 pre-licensing education course shall include review and
22 approval of the course provider.

23

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

7

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

11

12 (e) The pre-licensing education requirements approved
13 by the registry in paragraphs (a)(i), (ii) and (iii) of
14 this section for any state shall be accepted as credit
15 towards completion of pre-licensing education requirements
16 in Wyoming.

17

18 (f) An individual licensed under this act after July
19 1, 2009 and who subsequently applies to be licensed again:

20

21 (i) Shall not have to complete pre-licensing
22 education requirements;

23

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

3
4 **40-23-128. Testing of mortgage loan originators.**

5
6 (a) In order to meet the written test requirement
7 referred to in W.S. 40-23-126(a)(v), an individual shall
8 pass, in accordance with the standards established under
9 this section, a qualified written test developed by the
10 registry and administered by a test provider approved by
11 the registry.

12
13 (b) A written test shall not be treated as a
14 qualified written test for purposes of subsection (a) of
15 this section unless the test adequately measures the
16 applicant's knowledge and comprehension in appropriate
17 subject areas, including:

18
19 (i) Ethics;

20
21 (ii) Federal law and regulation pertaining to
22 mortgage origination;

23

1 (iii) Wyoming law and regulation pertaining to
2 mortgage origination; and

3

4 (iv) Federal and Wyoming law and regulation,
5 including instruction on fraud, consumer protection, the
6 nontraditional mortgage marketplace and fair lending
7 issues.

8

9 (c) Nothing in the section shall prohibit a test
10 provider from providing a test at the location of the
11 employer of the applicant, the location of any subsidiary
12 or affiliate of the employer of the applicant or the
13 location of any entity with which the applicant holds an
14 exclusive arrangement to conduct the business of a mortgage
15 loan originator.

16

17 (d) An individual shall not be considered to have
18 passed a qualified written test unless the individual
19 achieves a test score of not less than seventy-five percent
20 (75%) correct answers to questions.

21

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

4

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

8

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

14

15 **40-23-129. Standards for loan originator license**
16 **renewal; rulemaking.**

17

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

20

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

1

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

5

6 (iii) The mortgage loan originator has paid the
7 license renewal fee not to exceed three hundred dollars
8 (\$300.00), as established by rule of the commissioner.

9

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

18

19 **40-23-130. Continuing education for mortgage loan**
20 **originators; rulemaking.**

21

22 (a) In order to meet the annual continuing education
23 requirements referred to in W.S. 40-23-129(a)(ii), a

1 licensed mortgage loan originator shall complete at least
2 eight (8) hours of education approved in accordance with
3 subsection (b) of this section, which shall include at
4 least:

5

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

8

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

12

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

16

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

22

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. 40-23-129(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 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

1 receive credit for the licensed mortgage loan originator's
2 own annual continuing education requirement at the rate of
3 two (2) hours of credit for every one (1) hour taught.
4

5 (g) An individual having successfully completed the
6 education requirements approved by the registry in
7 paragraphs (a)(i), (ii) and (iii) of this section for any
8 state shall be accepted as credit towards completion of
9 continuing education requirements in Wyoming.
10

11 (h) An individual meeting the requirements of W.S.
12 40-23-129(a)(i) and (iii) may make up any deficiency in
13 continuing education as established by rule of the
14 commissioner.
15

16 (j) An individual licensed under this act after July
17 1, 2009 and who subsequently applies to be licensed again
18 shall complete the continuing education requirements for
19 the last year in which the license was held prior to
20 issuance of a new or renewed license.
21

22 **40-23-131. Mortgage call reports.**
23

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

4

5 **40-23-132. Report to the registry.**

6

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

11

12 **40-23-133. Unique identifier; rulemaking.**

13

14 The unique identifier of any person originating a
15 residential mortgage loan shall be clearly shown on all
16 residential mortgage loan applications forms, solicitations
17 or advertisements, including business cards or websites and
18 any other documents as established by rule of the
19 commissioner.

20

21 **Section 2.** W.S. 7-19-106(a) by creating a new
22 paragraph (xx), 7-19-201(a) by creating a new paragraph
23 (xiii), 40-14-121(a)(intro), 40-14-140(a)(xii) and by

1 creating a new paragraph (xx) and by renumbering (xx) as
2 (xxi), 40-14-142(a) by creating new paragraphs (lx) through
3 (lxxvi) and by renumbering (lx) as (lxxvii), 40-14-633,
4 40-14-634(b), 40-14-635 by creating a new subsection (h)
5 and 40-14-636, 40-23-102(a)(vi), (ix) and (xv), by creating
6 new paragraphs (xviii) through (xxxiii) and by renumbering
7 (xviii) as (xxxiv), 40-23-103(a)(ii), 40-23-104,
8 40-23-107(b)(ii) and (vi) and by creating a new paragraph
9 (vii), 40-23-109(a), 40-23-110, 40-23-112(b), by creating
10 new subsections (f) through (j) and by renumbering (f) as
11 (k) and 40-23-118 by creating a new subsection (d) are
12 amended to read:

13

14 **7-19-106. Access to, and dissemination of,**
15 **information.**

16

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

20

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

1

2 **7-19-201. State or national criminal history record**
3 **information.**

4

5 (a) The following persons shall be required to submit
6 to fingerprinting in order to obtain state and national
7 criminal history record information:

8

9 (xiii) Mortgage lenders, mortgage brokers,
10 mortgage loan originators and persons identified in W.S.
11 40-23-107(a)(iii), as necessary to perform the background
12 checks required by W.S. 40-14-642(c)(i), 40-23-103(a)(viii)
13 and 40-23-125(c)(i).

14

15 **40-14-121. Exclusions.**

16

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

19

20 **40-14-140. General definitions.**

21

22 (a) In addition to definitions appearing in
23 subsequent articles, in this act:

1

2 (xii) "Organization" means a sole
3 proprietorship, limited liability company, corporation,
4 government or governmental subdivision or agency, trust,
5 estate, partnership, cooperative, ~~or~~ association or other
6 entity, public or private;

7

8 (xx) "Licensee" means an organization licensed
9 under this act;

10

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

13

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

15

16 (a) Definitions in this act and the sections in which
17 they appear are:

18

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

20

21 (lxi) "Clerical or support duties" - W.S.
22 40-14-640(a)(ii);

23

- 1 (lxii) "Depository institution" - W.S.
- 2 40-14-640(a)(iii);
- 3
- 4 (lxiii) "Dwelling" - W.S. 40-14-640(a)(iv);
- 5
- 6 (lxiv) "Federal banking agency" - W.S.
- 7 40-14-640(a)(v);
- 8
- 9 (lxv) "Immediate family member" - W.S.
- 10 40-14-640(a)(vi);
- 11
- 12 (lxvi) "Individual" - W.S. 40-14-640(a)(vii);
- 13
- 14 (lxvii) "Licensee" - W.S. 40-14-140(a)(xx);
- 15
- 16 (lxviii) "Loan processor or underwriter" - W.S.
- 17 40-14-640(a)(viii);
- 18
- 19 (lxix) "Mortgage loan originator" - W.S.
- 20 40-14-640(a)(ix);
- 21
- 22 (lxx) "Nontraditional mortgage product" - W.S.
- 23 40-14-640(a)(x);

1

2

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

3

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

4

5

(lxxii) "Registered mortgage loan originator" -

6

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

7

8

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

9

10

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

11

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

12

13

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

14

15

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

16

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

17

18

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

19

through 40-14-702.

20

21

40-14-633. Crediting of monies.

22

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

13

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

17

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

1 such as to warrant belief that the business will not be
2 operated honestly and fairly within the purposes of this
3 act. A license shall not be issued if:

4
5 (i) The applicant has been convicted of, pled
6 guilty or nolo contendere to, a felony in a domestic,
7 foreign or military court during the seven (7) year period
8 preceding the date of the application for licensing, or at
9 any time preceding such date of application if such felony
10 involved an act of fraud, dishonesty, breach of trust or
11 money laundering; or

12
13 (ii) The applicant has been convicted of, pled
14 guilty or nolo contendere to a misdemeanor in a domestic,
15 foreign or military court involving an act of fraud,
16 dishonesty, breach of trust or money laundering.

17
18 **40-14-635. Revocation or suspension of license.**

19
20 (h) For purposes of this section, "licensee" shall
21 also mean a licensed mortgage loan originator pursuant to
22 W.S. 40-14-641.

23

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

1 the commissioner from an applicant or licensee are
2 confidential.

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

18
19 (e) The commissioner may enter into cooperative,
20 coordinating or information sharing agreements with any
21 other supervisory agency or any organization affiliated
22 with or representing one (1) or more supervisory agencies
23 with respect to the periodic examination or other

1 supervision of any office in Wyoming of an out-of-state
2 licensee, and the commissioner may accept the parties'
3 reports of examination and reports of investigation in lieu
4 of conducting his own examinations or investigations.

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

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

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

21
22 (g) Any Wyoming law relating to the disclosure of
23 confidential supervisory information or any information or

1 material described in subsection (d) of this section that is
2 inconsistent with subsection (d) of this section shall be
3 superceded by the requirements of this section.

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

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

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

21
22 **40-23-102. Definitions.**

23

1 (a) As used in this act:

2

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

5

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

13

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

18

19 (xv) "Residential mortgage loan" means a first
20 mortgage loan made primarily for personal, family or
21 household use ~~and primarily secured by a security interest~~
22 ~~on residential real property~~that is secured by a mortgage,
23 deed of trust or other equivalent consensual security

1 interest on a dwelling or residential real estate in
2 Wyoming upon which is constructed or intended to be
3 constructed a dwelling;

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

9
10 (xix) "Clerical or support duties" means:

11
12 (A) The receipt, collection, distribution
13 and analysis of information common for the processing or
14 underwriting of a residential mortgage loan; and

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

22

1 (xx) "Company" means a sole proprietorship,
2 partnership, corporation, limited liability company or
3 other entity, public or private;

4
5 (xxi) "Depository institution" means a company
6 as defined in 12 U.S.C. 1813 of the federal deposit
7 insurance act, and includes any credit union;

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

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

21
22 (xxiv) "Immediate family member" means a spouse,
23 child, sibling, parent, grandparent, grandchild,

1 stepparent, stepchild, stepsibling and any adoptive
 2 relationship included in this paragraph;

3

4 (xxv) "Individual" means a natural person;

5

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

11

12 (xxvii) "Mortgage loan originator":

13

14 (A) Means an individual who for
 15 compensation or gain or in the expectation of compensation
 16 or gain:

17

18 (I) Takes a residential mortgage loan
 19 application; or

20

21 (II) Offers or negotiates the terms of
 22 a residential mortgage loan.

23

1 (B) Shall not include any individual
2 engaged solely as a loan processor or underwriter except as
3 otherwise described in W.S. 40-23-124(d);
4

5 (C) Shall not include a person who only
6 performs real estate brokerage activities and is licensed
7 or registered in accordance with Wyoming law, unless the
8 person is compensated by a lender, a mortgage broker or
9 other mortgage loan originator or by any agent of such
10 lender, mortgage broker or other mortgage loan originator;
11 and
12

13 (D) Shall not include a person solely
14 involved in extensions of credit relating to timeshare
15 plans.
16

17 (xxviii) "Nontraditional mortgage product" means
18 any mortgage product other than a thirty (30) year fixed
19 rate mortgage;
20

21 (xxix) "Real estate brokerage activity" means
22 any activity that involves offering or providing real
23 estate brokerage services to the public, including:

1

2

3

4

5

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

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

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

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

1 (E) Offering to engage in any activity, or
 2 act in any capacity, described in subparagraphs (A), (B),
 3 (C) or (D) of this paragraph.

4
 5 (xxx) "Registered mortgage loan originator"
 6 means any individual who:

7
 8 (A) Is registered with, and maintains a
 9 unique identifier through, the registry; and

10
 11 (B) Meets the definition of mortgage loan
 12 originator and is an employee of:

13
 14 (I) A depository institution;

15
 16 (II) A subsidiary that is:

17
 18 (1) Owned and controlled by a
 19 depository institution; and

20
 21 (2) Regulated by a federal
 22 banking agency; or

23

1 (III) An institution regulated by the
2 farm credit administration.

3
4 (xxxi) "Registry" means the nationwide mortgage
5 licensing system and registry which is a mortgage licensing
6 system developed and maintained by the conference of state
7 bank supervisors and the American association of
8 residential mortgage regulators for the licensing and
9 registration of mortgage lenders, mortgage brokers and
10 mortgage loan originators;

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

14
15 (xxxiii) "Unique identifier" means a number or
16 other identifier assigned by protocols established by the
17 registry;

18
19 ~~(xviii)~~xxxiv "This act" means W.S. 40-23-101
20 through ~~40-23-123~~40-23-133.

21
22 **40-23-103. Powers and duties of commissioner.**

23

1 (a) In addition to any other powers and duties
2 imposed upon the commissioner by law, the commissioner
3 shall:

4
5 (ii) Order any ~~licensee~~ mortgage broker,
6 mortgage lender or mortgage loan originator to cease any
7 activity or practice which the commissioner deems to be
8 deceptive, dishonest, a violation of state or federal laws
9 or regulations or unduly harmful to the interests of the
10 public;

11
12 **40-23-104. License requirements.**

13
14 (a) With the exception of those persons exempt
15 pursuant to W.S. 40-23-105, on and after July 1, 2005, no
16 ~~person~~ company shall engage in mortgage lending activities
17 or mortgage brokering activities without first obtaining a
18 license in accordance with this act.

19
20 (b) A ~~person~~ company engaged in mortgage lending or
21 mortgage brokering activities ~~who advertises, offers or~~
22 ~~provides services to Wyoming residents through any medium~~
23 ~~including, but not limited to, internet or other electronic~~

1 ~~means~~ with any dwelling located in Wyoming shall first
2 obtain a license in accordance with this act.

3

4 **40-23-107. Application for license to do business as**
5 **a mortgage lender or mortgage broker.**

6

7 (b) An application for license may be granted if the
8 commissioner finds:

9

10 (ii) The applicant has not been convicted of,
11 pled guilty or nolo contendere to, a felony ~~or misdemeanor~~
12 ~~involving any aspect of the mortgage lending business,~~
13 ~~breach of trust or fraudulent or dishonest dealing~~ in a
14 domestic, foreign or military court during the seven (7)
15 year period preceding the date of the application for
16 licensing, or at any time preceding such date of
17 application if such felony involved an act of fraud,
18 dishonesty, breach of trust or money laundering;

19

20 (vi) The applicant has provided information on
21 the application as required by the commissioner pursuant to
22 subsection (a) of this section; ~~;~~ and

23

1 (vii) The applicant has not been convicted of,
2 pled guilty or nolo contendere to a misdemeanor in a
3 domestic, foreign or military court involving an act of
4 fraud, dishonesty, breach of trust or money laundering.

5
6 **40-23-109. License renewal and annual report.**

7
8 (a) Each mortgage broker and mortgage lender license
9 issued under this act shall expire on December 31. The
10 license shall be renewed annually not less than thirty (30)
11 days before the stated expiration date. The renewal fee
12 for each license shall not exceed one thousand dollars
13 (\$1,000.00) for the home office location and an amount not
14 to exceed one hundred dollars (\$100.00) for each additional
15 location, as set by rule of the commissioner.

16
17 **40-23-110. Surety bonds.**

18
19 (a) All licensees shall maintain a surety bond to the
20 state of Wyoming in accordance with this section. The
21 surety bond shall be used to cover individual loan
22 originators employed or under contract with a licensee.
23 The bond to be maintained shall be in the amount:

1

2 (i) Until December 31, 2009, of twenty-five
3 thousand dollars (\$25,000.00). This amount shall be
4 increased by an additional sum of ten thousand dollars
5 (\$10,000.00) for each licensed office;
6

6

7 (ii) Effective January 1, 2010, as established
8 by rule of the commissioner based upon the volume of
9 business activity transacted by the licensee under this
10 act.

11

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

21

22 ~~(b)~~(c) In the event that a licensee or person
23 employed by or under contract with a licensee has violated

1 any of the provisions of this act or of a rule or order
2 lawfully made pursuant to this act, or federal law or
3 regulation pertaining to the mortgage lending or mortgage
4 brokering, and has damaged any person by such violation,
5 then the bond shall be forfeited and paid by the surety to
6 the state of Wyoming for the benefit of any person so
7 damaged, in an amount sufficient to satisfy the violation
8 or the bond in its entirety if the violation exceeds the
9 amount of the bond.

10

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

17

18 **40-23-112. Records; confidentiality of records;**
19 **exception.**

20

21 (b) Except as provided in ~~subsection (e)~~subsections
22 (c) through (f) of this section, all information or reports

1 obtained by the commissioner from an applicant or licensee
2 are confidential.

3

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

19

20 (g) Information or material that is subject to a
21 privilege or confidentiality under subsection (f) of this
22 section shall not be subject to:

23

1 (i) Disclosure under any federal or state law
2 governing the disclosure to the public of information held
3 by an officer or agency of the federal government or the
4 respective state; or

5
6 (ii) Subpoena, discovery or admission into
7 evidence, in any private civil action or administrative
8 process, unless with respect to any privilege held by the
9 registry with respect to such information or material, the
10 person to whom such information or material pertains waives
11 that privilege, in whole or in part.

12
13 (h) Any Wyoming law relating to the disclosure of
14 confidential supervisory information or any information or
15 material described in subsection (f) of this section that is
16 inconsistent with subsection (f) of this section shall be
17 superceded by the requirements of this section.

18
19 (j) This section shall not apply with respect to the
20 information or material relating to the employment history
21 of, and publicly adjudicated disciplinary and enforcement
22 actions against, any mortgage loan originator that is
23 included in the registry for access by the public.

1

2 ~~(f)~~(k) This section does not prohibit the
3 commissioner from disclosing to the public a list of
4 persons licensed under this act.

5

6 **40-23-118. License suspension or revocation.**

7

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

11

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

13

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

15

16

(END)