

THE REAL ESTATE COMMISSIONER
HEREBY ADOPTS THE FOLLOWING REGULATIONS
TO CHAPTER 6, TITLE 10, CALIFORNIA CODE OF REGULATIONS
EFFECTIVE: FEBRUARY 26, 2010

1. Article 7, Chapter 6, Title 10 of the California Code of Regulations is amended to read:

ARTICLE 7. SALESPERSONS

2. Section 2750 is amended to read:

§ 2750. Minimum Age.

A real estate salesperson license shall not be issued to a person who has not attained the age of 18 years.

NOTE: Authority cited: Section 10080, Business and Professions Code. Reference: Section 10017, Business and Professions Code.

3. Section 2756 is adopted to read:

§ 2756. Salesperson Performance of Mortgage Loan Origination

A salesperson must obtain and be maintaining a mortgage loan originator license endorsement and be employed by a licensed real estate broker who has obtained and is maintaining a mortgage loan originator license endorsement to perform acts for which a mortgage loan originator license endorsement is required.

NOTE: Authority cited: Sections 10080 and 10166.17, Business and Professions Code. Reference: Sections 10132, 10166.01(b), 10166.02, 10166.07(a), 10166.11(a) and (b), 10166.12(a), Business and Professions Code.

4. Article 7.5 is added to Chapter 6, Title 10 of the California Code of Regulations to read:

ARTICLE 7.5. MORTGAGE LOAN ORIGINATOR LICENSE ENDORSEMENT

5. Section 2758.1 is adopted to read:

§ 2758.1. Examination.

(a) The examination to qualify for a mortgage loan originator license endorsement shall be

administered through the federal Nationwide Mortgage Licensing System and Registry and will consist of a national component and California state component. No portion of the examination is applicable, or a condition precedent, to the application required to obtain a real estate license in California.

(b) A person taking the examination to qualify for a mortgage loan originator license endorsement shall abide by the rules, policies, and procedures set forth by the Nationwide Mortgage Licensing System and Registry.

NOTE: Authority cited: Sections 10080 and 10166.17, Business and Professions Code.
Reference: Sections 10150(d), 10151(e), 10166.02(b)(2) and (d), and 10166.06, Business and Professions Code.

6. Section 2758.2 is adopted to read:

§ 2758.2. Fingerprints.

In order to apply for a mortgage loan originator license endorsement, an applicant must submit his or her fingerprints to the Nationwide Mortgage Licensing System and Registry. The submission of fingerprints shall be in addition to the fingerprint submission requirement to obtain a California real estate license.

NOTE: Authority cited: Section 10080 and 10166.17, Business and Professions Code.
Reference: Sections 10150(d), 10151(e), 10166.02(b)(2) and (d), and 10166.04(a)(1), Business and Professions Code.

7. Section 2758.3 is adopted to read:

§ 2758.3. Evidence of Financial Responsibility.

The Commissioner's finding required by Section 10166.05(c) of the Business and Professions Code relates to any matter, personal or professional, that may impact upon an applicant's propensity to operate honestly, fairly, and efficiently when engaging in the fiduciary role of a mortgage loan

originator.

In order to apply for a mortgage loan originator license endorsement, an applicant shall authorize the Nationwide Mortgage Licensing System and Registry (NMLSR) to obtain the applicant's current credit report. The credit report will be used as needed to validate the applicant's responses to the NMLSR's electronic application forms, in order to support the Commissioner's finding required by Section 10166.05(c) of the Business and Professions Code.

(a) The applicant may be precluded from obtaining a mortgage loan originator license endorsement where his or her personal history includes:

(1) any liens or judgments for fraud, misrepresentation, dishonest dealing, and/or mishandling of trust funds, or

(2) other liens, judgments, or financial or professional conditions that indicate a pattern of dishonesty on the part of the applicant.

(b) Notwithstanding the requirements above, where an applicant for a mortgage loan originator license endorsement (1) is currently holding a restricted real estate license, or (2) has a right to a restricted license and is making a dual application for the restricted license and mortgage loan originator license endorsement, such applicant must demonstrate, where pertinent, the completion of restitution to any person who has suffered monetary losses through acts or omissions of the applicant that include, but are not limited to, those that substantially related to the qualifications, functions or duties of a real estate licensee as defined in Section 2910 of these regulations, and/or the discharge of, or bona fide efforts toward discharging, adjudicated debts or monetary obligations to others.

NOTE: Authority cited: Section 10080 and 10166.17, Business and Professions Code.
Reference: Sections 10150(d), 10151(e), 10166.02(b)(2) and (d), 10166.04(a)(2), and 10166.05 (c), Business and Professions Code.

8. Section 2758.4 is adopted to read:

§ 2758.4. Fees.

The fee to obtain and maintain a mortgage loan originator license endorsement shall consist of a processing fee charged by the Nationwide Mortgage Licensing System and Registry and an annual license endorsement fee charged by the Department. The annual license endorsement fee is \$300. Fees submitted to obtain a license endorsement are deemed earned upon receipt.

A licensee who applies for a mortgage loan originator license endorsement during 2010 shall pay a fee of \$300, which will be for the licensee's 2011 license endorsement. A licensee who makes his or her original application for a license endorsement in 2011 or later shall pay a fee of \$300 for the year in which the licensee applies, except that a license endorsement application approved after October 31 of a given year will be valid until December 31 of the following year.

A licensee who holds a mortgage loan originator license endorsement may apply to renew the license endorsement in November and December for the following calendar year. The license endorsement renewal application is entered via the Nationwide Mortgage Licensing System and Registry, and the license endorsement fee for the renewal shall be paid to the Nationwide Mortgage Licensing System and Registry during the November/December processing period.

NOTE: Authority cited: Section 10080 and 10166.17, Business and Professions Code.
Reference: Sections 10166.17(b), Business and Professions Code.

9. Section 2758.5 is adopted to read:

§ 2758.5. Application, Electronic Signature, and License Changes.

(a) An application to obtain a mortgage loan originator license endorsement or to change licensing information on an existing mortgage loan originator license endorsement must be filed using the procedures and electronic system maintained by the Nationwide Mortgage Licensing System and Registry. An applicant shall sign and attest to the information provided in the application through the

electronic signature function of the system.

(b) A real estate licensee who has been issued a license endorsement is required to maintain the same current license information on file with the Department and with the Nationwide Mortgage Licensing System and Registry, including licensee name, licensee main office and mailing address. License information regarding a licensee's fictitious business names and branch office locations that are used for mortgage loan origination activities must also be provided contemporaneously by the licensee to both the Department and Nationwide Mortgage Licensing System and Registry.

(c) Where a licensed real estate salesperson acts as a mortgage loan originator and holds a mortgage loan originator license endorsement, notice of employment or employment change for that salesperson that is required to be submitted to the Department under the provisions of the Real Estate Law and the Regulations of the Commissioner must also be filed electronically using the Nationwide Mortgage Licensing System and Registry.

(d) Brokers who employ broker associates to conduct mortgage loan originator activities must provide employment sponsorship information to the Nationwide Mortgage Licensing System and Registry within five (5) days of the commencement of employment. Termination of a broker/broker associate employment relationship must be reported to the Nationwide Mortgage Licensing System and Registry within five (5) days of the termination.

NOTE: Authority cited: Section 10080 and 10166.17, Business and Professions Code.
Reference: Sections 10150(d), 10151(e), 10161.8, Business and Professions Code.

10. Section 2758.6 is adopted to read:

§ 2758.6. Corporate Real Estate Brokers, Officers, Directors, and Shareholders.

The designated officer of a corporation who applies for or has been issued a mortgage loan originator license endorsement on behalf of the corporation is responsible for maintaining and updating, as needed, on the Nationwide Mortgage Licensing System and Registry, background

information for the following individuals associated with the corporation:

- (a) directors,
- (b) officers,
- (c) subordinate officers with the responsibility for forming policy of the corporation,
- (d) all natural persons owning or controlling ~~more than~~ ten percent or more of the corporation's shares.

These directors, officers, subordinate officers, and owners/controlling persons are required by these regulations to provide personal information and background information as requested by the Nationwide Mortgage Licensing System and Registry. A broker officer who conducts mortgage loan originator activities on behalf of a corporate real estate licensee must hold an individual mortgage loan originator license endorsement.

NOTE: Authority cited: Sections 10080 and 10166.17, Business and Professions Code.

Reference: Sections 10150(d), 10151(e), 10159, 10159.2, Business and Professions Code.

11. Section 2758.7 is adopted to read:

§ 2758.7. Renewal and Continuing Education.

(a) After January 1, 2011, the term for a mortgage loan originator license endorsement shall expire on December 31 of the year for which the license endorsement is issued, except that license endorsement applications approved after October 31 of a given year will be valid until December 31 of the following year.

(b) The renewal requirements for a mortgage loan originator license endorsement, including a renewal request and evidence of completion of required continuing education courses that have been completed in the same calendar year, must be filed and all applicable fees paid between November 1 and December 31 through the Nationwide Mortgage Licensing System and Registry.

(c) A licensee who fails to file the necessary requirements to renew a mortgage loan originator

license endorsement by December 31 may request reinstatement of the expired license endorsement by filing the appropriate renewal and other applicable minimum application requirements before March 1 of the following year. Notwithstanding Section 10166.10(f) of the Business and Professions Code, continuing education completed between January 1 and March 1, while a license endorsement is expired and for the purpose of meeting the requirements to reinstate the expired license endorsement, will be credited to, and only be credited to, the renewal period of the previous year. If the renewal requirements are not filed by March 1, the licensee must apply for a new mortgage loan originator license endorsement and meet the requirements for a license endorsement at that time.

NOTE: Authority cited: Sections 10080 and 10166.17, Business and Professions Code.

Reference: Sections 10150(d), 10151(e), 10166.10, and 10166.17(c), Business and Professions Code.

12. Section 2911 is amended to read:

ARTICLE 18.5. SUBSTANTIAL RELATIONSHIP AND REHABILITATION CRITERIA

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§ 2911 Criteria of Rehabilitation (Denial)

The following criteria have been developed by the department pursuant to Section 482(a) of the Business and Professions Code for the purpose of evaluating the rehabilitation of an applicant for issuance or for reinstatement of a license in considering whether or not to deny the issuance or reinstatement on account of a crime or act committed by the applicant:

(a) The passage of not less than two years since the most recent criminal conviction or act of the applicant that is a basis to deny the departmental action sought. (A longer period will be required if there is a history of acts or conduct substantially related to the qualifications, functions or duties of a licensee of the department.)

(b) Restitution to any person who has suffered monetary losses through “substantially related” acts or omissions of the applicant.

(c) Expungement of criminal convictions resulting from immoral or antisocial acts.

(d) Expungement or discontinuance of a requirement of registration pursuant to the provisions of Section 290 of the Penal Code.

(e) Successful completion or early discharge from probation or parole.

(f) Abstinance from the use of controlled substances or alcohol for not less than two years if the conduct which is the basis to deny the departmental action sought is attributable in part to the use of controlled substances or alcohol.

(g) Payment of the fine or other monetary penalty imposed in connection with a criminal conviction or quasi-criminal judgment.

(h) Stability of family life and fulfillment of parental and familial responsibilities subsequent to the conviction or conduct that is the basis for denial of the agency action sought.

(i) Completion of, or sustained enrollment in, formal educational or vocational training courses for economic self-improvement.

(j) Discharge of, or bona fide efforts toward discharging, adjudicated debts or monetary obligations to others.

(k) Correction of business practices resulting in injury to others or with the potential to cause such injury.

(l) Significant or conscientious involvement in community, church or privately-sponsored programs designed to provide social benefits or to ameliorate social problems.

(m) New and different social and business relationships from those which existed at the time of the conduct that is the basis for denial of the departmental action sought.

(n) Change in attitude from that which existed at the time of the conduct in question as evidenced by any or all of the following:

(1) Testimony of applicant.

(2) Evidence from family members, friends or other persons familiar with applicant's previous conduct and with his subsequent attitudes and behavioral patterns.

(3) Evidence from probation or parole officers or law enforcement officials competent to testify as to applicant's social adjustments.

(4) Evidence from psychiatrists or other persons competent to testify with regard to neuropsychiatric or emotional disturbances.

(5) Absence of subsequent felony or misdemeanor convictions that are reflective of an inability to conform to societal rules when considered in light of the conduct in question.

(o) Each of the above criteria notwithstanding, no mortgage loan originator license endorsement shall be issued to an applicant for such license endorsement where the applicant has been convicted of any felony within seven (7) years from the date of his or her application for a license endorsement. This ban is not subject to mitigation or rehabilitation.

(p) Each of the above criteria notwithstanding, no mortgage loan originator license endorsement shall be issued to an applicant for such license endorsement where the applicant has ever been convicted of a felony where such felony involved an act of fraud, dishonesty, a breach of trust, or money laundering. This ban is not subject to mitigation or rehabilitation.

NOTE: Authority cited: Sections 10080 and 10166.17, Business and Professions Code.

Reference: Section 10166.05(b), Business and Professions Code.

13. Article 18.9 is added to Chapter 6, Title 10 of the California Code of Regulations to read:

ARTICLE 18.9. DISCIPLINE REGARDING MORTGAGE LOAN ORIGINATOR LICENSE

ENDORSEMENT

14. Section 2945.1 is adopted to read:

§ 2945.1 Effect of License Discipline on Mortgage Loan Originator License Endorsement

Real estate license discipline, including a revocation, a suspension, a voluntary surrender of a real estate license, a public reproof, and/or a bar order, may be cause for the revocation and/or suspension of the real estate licensee's mortgage loan originator license endorsement. The disciplinary action on an existing license endorsement may be imposed via the same process and within the same order as the license discipline.

NOTE: Authority cited: Sections 10080 and 10166.17, Business and Professions Code.

Reference: Sections 10150(d), 10151(e), and 10166.05(a), Business and Professions Code.

15. Section 2945.2 is adopted to read:

§ 2945.2 Effect of Prior License Discipline on Mortgage Loan Originator License Endorsement

Application

(a) Where a real estate licensee was subject to a real estate license discipline action filed by the Department prior to January 1, 2010, resulting in discipline in the form of a revocation and/or suspension, such discipline in itself shall not be the sole basis to deny the issuance of a mortgage loan originator license endorsement.

(b) Where a real estate licensee was subject to a real estate license discipline action filed by the Department on January 1, 2010, or later, resulting in a revocation, a suspension, a voluntary surrender of a real estate license, a public reproof, and/or a bar order, such discipline alone may be cause for denial of a subsequent mortgage loan originator license endorsement.

(c) A disciplinary action resulting in the revocation of a real estate license with an immediate right to a restricted real estate license shall not constitute a revocation for purposes of invoking a lifetime ban from holding a mortgage loan originator license endorsement.

NOTE: Authority cited: Sections 10080 and 10166.17, Business and Professions Code.

Reference: Sections 10150(d), 10151(e), and 10166.05(a), Business and Professions Code.

16. Section 2945.3 is adopted to read:

§ 2945.3 Effect of Prior Felony Conviction on Mortgage Loan Originator License Endorsement Application

A conviction for any felony within seven (7) years of a real estate licensee's application for a mortgage loan originator license endorsement is cause for denial of the application. A felony conviction at any time in the applicant's personal history where such felony involved an act of fraud, dishonesty, a breach of trust, or money laundering is cause for denial of the application. These restrictions constitute a ban on the real estate licensee's ability to apply for a license endorsement. These restrictions are not subject to mitigation or rehabilitation.

NOTE: Authority cited: Sections 10080 and 10166.17, Business and Professions Code.

Reference: Sections 10150(d), 10151(e), and 10166.05(b), Business and Professions Code.

17. Section 2945.4 is adopted to read:

§ 2945.4 Disciplinary Process Uniformity: Real Estate License and Mortgage Loan Originator License Endorsement

The Department will apply parallel standards and process to mortgage loan originator license endorsements as the Real Estate Law and Regulations of the Real Estate Commissioner apply to real estate licenses with regard to disciplinary procedure, voluntary surrender of license, statute of limitations, and jurisdiction over lapsed and suspended licenses.

NOTE: Authority cited: Sections 10080 and 10166.17, Business and Professions Code. Reference: Sections 10100, 10100.2, 10101, 10103, 10150(d), 10151(e), and 10166.17(d), Business and Professions Code.