



3-hour NY SAFE PE and Test Preparatory
New York State Laws and Regulations

*A comprehensive review of New York Mortgage law,
restrictions, limitations and obligations to provide protections
for consumers and enhance professional standards
for the mortgage lending industry.*

Authored by Paul Donohue

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3-hour New York SAFE PE and Test Preparatory
New York State Licensing Laws
Statement of Purpose

The purpose of this course is to help raise the level of professional competency in the mortgage industry, provide protections for New York consumers when obtaining a mortgage loan and enhance the stability of the New York Financial markets.

Course Summary

Section I - 1 hour 30 minutes

The NY State Banking Department and the New Mortgage Licensing Laws

Part A:

Introduction and the New York State Banking Department - 15 min.

Part B:

Article 12-E: Licensed Mortgage Loan Originators - 50 min.

Part C:

Article 12-D: Licensed Mortgage Bankers - 30 min.

Section II - 1 hour 30 minutes

Non-banking Organizations: Part 420, Mortgage Loan Originators

Part A:

Sec. 420.1 to 420.8 – License, definitions and termination - 25 minutes

Part B:

Sec. 420.9 to 420.17 – License renewal, education and reporting - 25 minutes

Part C:

Sec. 420.18 to 420.21 – Duties, prohibited conduct and penalties - 25 minutes

Quiz handout, review and Q&A - 15 minutes

3-hour New York SAFE PE and Test Preparatory
New York State Licensing Laws
Course Description

This New York licensing law course is a thorough review of 12-E and 12-D of the central banking laws and Part 420, the Superintendent's Regulation as amended for SAFE Act compliance for the non-banking mortgage channel in New York State. Through lecture, quizzes and real life scenarios the student will explore various restrictions, prohibitions and obligations for providing information to consumers and the necessary requirements to obtain and maintain proper licensure in the state of New York.

Course Objectives

This New York specific three-hour course has been developed in order to help the student;

- satisfy the 3 hour SAFE Act pre-license education for New York
- prepare to take the SAFE MLO New York state test component
- properly execute their licensing obligation for New York
- understand mortgage banker's and mortgage broker's obligations with the New York State Banking Department
- embrace the principles of consumer protections

Note: *This course is in no way a complete review of all the content necessary to study for and pass the NY State SAFE Test Component. The content of this course is as much of the critical law and regulation that can be taught within the three hour time requirement necessary for NY State education requirements. Further study and materials will be necessary to get a full understanding of the entire body of NY law that was used to construct the NY State SAFE test component. Please refer to the NY State SAFE Test Component Outline at the end of this textbook or on the NMLS website under:*

Professional Requirements ⇒ Testing ⇒ Test Content Outlines and Availability Dates ⇒ New York for more details.

Course Syllabus

Section I: New York Banking Laws 12-E and 12-D - 1 hour and 30 minutes

Learning Objectives: The learning objectives for Section I of this three-hour course are to become familiar with Article 12-E and the licensing of Mortgage Loan Originators and also Article 12-D regarding the licensure of mortgage bankers and the registration of mortgage broker entities. Each student will be expected to learn and fully understand:

- key definitions for Articles 12-E and 12-D
- exemptions from licensure
- license requirements and exception
- qualifications and issuance of licensure and denial
- responsibilities of mortgage entities
- the different powers and restrictions for mortgage bankers, servicers, brokers and Mortgage Loan Originators
- disciplinary actions and penalties
- suspension and expiration of authorization
- duties of the various participants
- administrative action and penalties

Section II: Non-Banking Organizations: Part 420, Mortgage Loan Originators
1 hour and 30 minutes

Learning Objectives: The learning objectives for Section II of this three-hour course are to fully understand Part 420, the New York Banking Superintendent's Regulation as amended as of December 2009, regarding the rules for New York State Licensed Mortgage Loan Originators.

Each student will be expected to learn and fully understand:

- what individuals must be licensed and who is exempt
- key definitions and license application procedures
- approval, denial and license status
- suspension, termination, surrender and renewal
- education and testing requirements
- Surety Bond coverage, fees and reporting
- originating entity duties
- Mortgage Loan Originator (MLO) duties
- prohibited acts
- administrative actions, hearings and penalties

Notice to Students, Please read:

This is not an origination course; rather it is a study of the New York laws and regulations necessary to operate in compliance with federal and state licensing rules and to prepare you for the New York State component of the SAFE Act test. As such, the full text of these regulations and statutes are included in the course. We have taken only slight liberty with the text in order to render the reading of the laws more user friendly.

To be successful on the New York state test you will have to fully read and understand the content in this course. We have included the SAFE MLO New York Test component content outline for your review. You will notice the test outline is broad and all the content cannot possibly be covered within the limits of this three hours of class time. Be certain you also access the various other laws including:

- Part 38, 39 and 41 of the Bonding Board
- Sections 265 and 265-B of the New York Real Property Law
- Section 296-a, 25, 29-h
- Article 8 sections 254-b, c, d and 265-a and b, plus 274-a, 275, 280a and b
- Title 5-501, 524 and 5-601 and 3a

To assist you in your test preparation, Abacus has developed a unique study tool specifically for the New York state test and the national test component as well. Contact our offices at 888-743-7767 to find out more, or visit us at www.getyoured.com.

Disclaimer:

This course and any information included in it, or materials distributed with it, should not in any way be construed as legal advice. It is understood that this course is for informational purposes only in order to prepare for the SAFE Act tests and to assist in learning the obligations of a state-licensed mortgage loan originator. We highly recommend that each individual or entity seek competent legal advice before implementing any policies or procedures.

All test preparatory information has been compiled for guidance purposes only and is made solely for self-study without any warranties of outcome.

Section VIII
New York State Banking Laws

Part A
**Introduction and the New York
State Banking Department**

The New York State Banking Department

Phone: 1-877-BANK-NYS

Mailing Address:

Superintendent of Banks
New York State Banking Department
One State Street
New York, NY 10004-1511

Mortgage Banking Division:

Deputy Superintendent: Rholda Ricketts

Phone: (212) 709-5540

Email: rholda.ricketts@banking.state.ny.us

The New York State Banking Department is responsible for the supervision of entities involved in the residential mortgage business who handle property located in New York State, including licensed mortgage bankers and registered mortgage brokers. Also handles resolution of all written mortgage-related consumer complaints.

NY State Banking Department Mission Statement

To allow the financial industry to expand and prosper through judicious regulation and vigilant supervision, to educate and protect consumers while promoting economic growth and ensuring the financial system is safe and accessible to all.

The Department is the primary regulator for state-licensed financial entities, including various depository institutions, trust companies, credit unions and mortgage bankers, mortgage brokers, check cashers, money transmitters and licensed lenders.

The Department's legislative mandate is to ensure the safe and sound conduct of these businesses, to conserve assets, to prevent unsound and destructive competition, to maintain public confidence in the banking system, and to protect the public interest and the interests of depositories, creditors and stockholders.

Regulatory Authority

The banking board has the power to make, alter and amend resolutions, rules and regulations. Resolutions or rules or regulations may also be adopted to approve organization certificates and articles of association, private bankers' certificates submitted to it by the superintendent.

Department / Agency Structure

The Board is composed of seventeen members. The Superintendent of Banks is a member and is the Board's chairman and executive head. Each of the other sixteen members are appointed by the governor and approved by the senate for a three-year term. Eight are public members, while the other eight must have banking experience and must represent various segments of the banking community. Members with banking experience are selected, one from each of the following eight groups:

Group one: banks, trust companies and private bankers located in the city of New York and having total assets of one billion dollars or more, as shown in their last report to the Superintendent.

Group two: banks, trust companies and private bankers located outside the city of New York and having total assets of one hundred fifty million dollars or more, as shown in their last report to the Superintendent.

Group three: banks, trust companies and private bankers other than those in group one and group two.

Group four: savings banks located in the city of New York and the counties of Westchester, Rockland, Nassau and Suffolk.

Group five: savings banks other than those in group four.

Group six: savings and loan associations.

Group seven: credit unions.

Group eight: foreign banking corporations licensed to maintain a branch or agency in the state. The member from this group must be a resident of the state but need not be a citizen of the United States.

It will be important for you to stay current with the changing requirements issued by the Superintendent of Banks. By visiting the site you will stay current on the Department's news, rule changes and have access to all the information necessary to maintain your license.

The New York State Banking Department has put together a website that is relatively easy to navigate with many functions you will find useful, not just during licensing, but also throughout the course of your year.

From the home page you can easily access the mortgage division pages, licensee search/status lookup/entity search and Superintendent's page.

For more information go to www.banking.state.ny.us

Section VIII
New York State Banking Laws

Part B
Article 12-E:
Licensed Mortgage Loan Originators

Introduction:

It was on July 11, 2009 that Article 12-E of the New York Banking Law was repealed and a new version of 12-E was introduced in order to comply with the Secure and Fair Enforcement (SAFE) for Mortgage Licensing Act of 2008. This new version of 12-E details the minimum standards for the licensing of Mortgage Loan Originators (MLOs), which includes:

- Pre-licensing Education
- Bond Requirements
- Regulatory Oversight
- Continuing Education Requirements
- Obtaining and Maintaining a NMLS Unique Identifier

Article 12-E, the sweeping New York law, known informally as the New York SAFE Act was signed into law by Governor David A. Paterson amending New York's existing mortgage licensing law with the purpose of complying with the Federal SAFE Act in order to register and license mortgage lenders, mortgage brokers, and Mortgage Loan Originators (MLOs). The Act includes a number of changes that affect the mortgage industry in New York, state law provisions relating to the individual licensing of mortgage loan originators and processors in an attempt to ensure a smooth transition to the Nationwide Mortgage Licensing System and Registry (NMLS).

Mortgage Banking Regulations and Statutes

Article 12-E: Licensed Mortgage Loan Originators as in effect on July 11, 2009

Section: 599

- 599-a Legislative purpose.
- 599-b Definitions.
- 599-c License required.
- 599-d State license application.
- 599-e Issuance of a license.
- 599-f Pre-licensing educational requirements.
- 599-g Testing of mortgage loan originators.
- 599-h Mortgage call reports.
- 599-i Standards for license renewal; inactive status.
- 599-j Continuing education for mortgage loan originators.
- 599-k Required surety bond.
- 599-l Reports by the superintendent; permissive challenges by licensees.
- 599-m Required records and reporting.
- 599-n Enforcement authority; grounds for suspension or revocation of a mortgage loan originator license; restitution.
- 599-o Rules, regulations and examinations.
- 599-p Unique identifier.
- 599-q Confidentiality.
- 599-r Construction.

599-a. Legislative purpose.

To enhance consumer protection, reduce fraud and ensure the public welfare, that mortgage loan originators who originate mortgage loans on residential real property be subject to regulation by the superintendent and that such regulation be consistent with Title V of The Housing and Economic Recovery Act of 2008, also known as the SAFE Mortgage Licensing Act, as it may be amended from time to time by the Secretary of the U.S. Department of Housing and Urban Development.

599-b. Definitions.

1. "**Annual expiration date**" means December 31st of each year.
2. "**Depository institution**" has the same meaning as in section three of the Federal Deposit Insurance Act, and includes any credit union.
3. "**Federal banking agencies**" means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Deposit Insurance Corporation.
4. "**Immediate family member**" means a spouse, child, sibling, parent, grandparent, or grandchild. This includes stepparents, stepchildren, stepsiblings and adoptive relationships.
5. "**Individual**" means a natural person.
6. **Loan processor or underwriter-**
 - (a) "**Loan processor or underwriter**" means an individual who performs clerical or support duties as an employee and subject to the supervision and instruction of a person licensed, or exempt from licensing, under this article, provided that such individual does not represent to the public, through advertising or other means of communicating or providing information, including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that such individual can or will perform any of the activities of a mortgage loan originator.
 - (b) For purposes of this subdivision, "**clerical or support duties**" may include, subsequent to the receipt of an application:
 - (1) the receipt, collection, distribution, and analysis of information common for the processing or underwriting of a residential mortgage loan; and
 - (2) communicating with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that such communication does not include offering or negotiating loan rates or terms, or counseling consumers about residential mortgage loan rates or terms.

7. **Mortgage loan originator (MLO) -**

(a) **"Mortgage Loan Originator"** means an individual who for compensation or gain or in the expectation of compensation or gain:

- takes a residential mortgage loan application; or
- offers or negotiates terms of a residential mortgage loan.

(b) **Does not include:**

- (1) any individual engaged solely as a loan processor or underwriter except as otherwise provided in subdivision four of section 599-c of this article;
- (2) an individual who performs only real estate brokerage activities and is licensed or registered in accordance with applicable New York law, unless the individual is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such lender, mortgage broker, or other mortgage loan originator; and
- (3) an individual solely involved in extensions of credit relating to timeshare plans, as that term is defined in section 101(53D) of title 11, United States Code.

(c) For purposes of this article, **"real estate brokerage activity"** means any activity that involves offering or providing real estate brokerage services to the public, including:

- (1) acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property;
- (2) bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property;
- (3) negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property (other than in connection with providing financing with respect to any such transaction);
- (4) 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
- (5) offering to engage in any activity, or act in any capacity, described in subparagraphs (1), (2), (3), or (4) of this paragraph.

8. **"Residential mortgage loan"** shall mean a loan to a natural person made primarily for personal, family or household use, secured by either a mortgage, deed of trust or other equivalent consensual security interest on a dwelling (as defined in section 1203(v) of the Truth in Lending Act) or residential real property or any certificate of stock or other evidence of ownership in, and proprietary lease from, a corporation or partnership formed for the purpose of cooperative ownership of residential real property and shall include any refinance or modification of any such existing loan.

9. "**Nationwide Mortgage Licensing System and Registry**" (NMLS) means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of licensed mortgage loan originators.
10. "**Nontraditional mortgage product**" means, for purposes of this article, any mortgage product other than a 30-year fixed rate mortgage.
11. "**Originating entity**" means a person or entity licensed or registered pursuant to article 12-D of this chapter or such other employer of mortgage loan originators as the superintendent may approve.
12. "**Person**" means an individual or any corporation, company, limited liability.
13. "**Registered mortgage loan originator**" means any individual who:
 - (a) Meets the definition of mortgage loan originator and is an employee of:
 - depository institution;
 - a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency; or
 - an institution regulated by the Farm Credit Administration; and
 - (b) Is registered with, and maintains a unique identifier through, the NMLS.
14. "**Residential real property**" shall mean real property located in this state improved by a one-to-four family residence or residential unit in a building used or occupied, or intended to be used or occupied, wholly or partly, as the home or residence of one or more persons, but shall not refer to unimproved real property upon which such residence is to be constructed.
15. "**Unique identifier**" means a number or other identifier assigned by protocols established by the NMLS.

599-c. License required.

1. **License required.** No individual, unless specifically exempt pursuant to subdivision three of this section shall engage in the business of a mortgage loan originator with respect to any dwelling or residential real property in this state without first obtaining and maintaining annually a license under this article. Each licensed mortgage loan originator must register with and maintain a valid unique identifier issued by the NMLS.
2. **Effective date.** In order to facilitate an orderly transition to licensing and minimize disruption in the mortgage marketplace:
 - (a) Each individual, other than an individual described in paragraph (b) of this subdivision, shall be licensed pursuant to subdivision one of this section not later than July 31, 2010, or such later date approved for mortgage loan originators in this state by the Secretary of the U.S. Department of Housing and Urban Development, pursuant to the authority granted under Public Law 110-289, Section 1508(a) and approved by the superintendent;
 - (b) Each individual authorized as a mortgage loan originator under prior law not later than July 31, 2009, shall be licensed pursuant to subdivision one of this section not later than January 1, 2011.
 - (c) Notwithstanding paragraphs (a) and (b) of this subdivision, after the effective date of this article, no individual shall act as a mortgage loan originator if such individual has been convicted of, or pled guilty or nolo contendere to, a felony of the types and during the time periods described in paragraph (b) of subdivision one of section 599-e of this article.
3. **Exemption from licensing requirements.** The following persons are exempt from the licensing requirements.
 - (a) Registered mortgage loan originators.
 - (b) Any individual who offers or negotiates the terms of a residential mortgage loan with or on behalf of an immediate family member of the individual.
 - (c) Any individual who offers or negotiates terms of a residential mortgage loan secured by a dwelling or residential real property that served as the individual's own residence.
 - (d) A licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such lender, mortgage broker, or other mortgage loan originator.

Real Life Scenario #1: Mr. Carter needs his attorney's help

Wade Pearson has been Bob Carter's attorney for 18 years, handling all Bob's contracts, estate planning, etc. Mr. Carter is buying a second home at the beach and has sent the purchase contract and commitment letter to Wade for review. Bob wants Wade's advice on the loan and is asking Wade to call the lender to discuss buying down the interest rate.

Does Mr. Pearson need to hold a MLO license in order to provide these mortgage services to Bob?

- (e) Any individual employed by a mortgage loan servicer registered under article 12-D of this chapter, who negotiates any modification of an existing residential mortgage loan on behalf of such servicer, and does not otherwise act as a mortgage loan originator, unless licensing is required by a rule, regulation, guideline or interpretation issued by the U.S. Department of Housing and Urban Development.
 - (f) Any individual involved in the sale of manufactured homes if exempted from licensing by a rule or interpretation issued by the U.S. Department of Housing and Urban Development.
4. **Independent contractor loan processors or underwriters.** A loan processor or underwriter who is an independent contractor of an originating entity may not engage in loan origination activities unless such independent contractor loan processor or underwriter obtains and maintains a license under this article.
- Note:** Each independent contractor loan processor or underwriter licensed as a mortgage loan originator must have and maintain a valid unique identifier issued by the NMLS.

599-d. New York State license application.

1. **Form of application.** Applicants for a license under this article shall apply on a form prescribed by the superintendent and shall contain content as set forth by rule, regulation and instruction of the superintendent. As part of such application the applicant (or his or her originating entity on his or her behalf) shall pay a fee as determined by the superintendent as an investigation and initial license fee. The investigation portion of such fee shall be no more than the superintendent's reasonable estimate of the actual cost or costs to the department to undertake such investigation of the applicant. The initial license portion of such fee and the annual license fee as hereafter required pursuant to this article shall be a license fee amount determined by the superintendent.

2. **Charges to originating entities.** Any expense of the administration of this article with respect to the licensing of mortgage loan originators that is included with an assessment of originating entities, shall be levied only upon such originating entities having employed or affiliated mortgage loan originators that are required to be licensed.
3. **Fee collection by the NMLS.** Any fee established may be collected by the NMLS and include a processing fee charged by that entity. Any such processing fees shall not be paid to the superintendent and shall not be revenue to the state finance law.
4. **Relationship with NMLS.** In order to fulfill the purposes of this article, the superintendent is authorized to establish contracts with the NMLS or other entities designated by the NMLS to collect and maintain records and process transaction fees related to licensees or other persons subject to this article.
5. **Waiver or modification of requirements.** The superintendent is authorized to waive or modify, any and all requirements of this article and to establish new requirements as may be necessary to participate in the NMLS or to comply with Title V of The Housing and Economic Recovery Act of 2008, also known as the S.A.F.E. Mortgage Licensing Act, as it may be amended from time to time by the Secretary of the U.S. Department of Housing and Urban Development.
6. **Electronic filing.** The superintendent may require that any application for, or renewal of, a license or for any other submission or approval as may be required, be made or executed by electronic means, including through the NMLS if he or she deems it necessary to ensure the efficient and effective administration of this article.
7. **NMLS as agent to distribute criminal background information.** In order to expedite the processing of all fingerprints, the superintendent is authorized to use the NMLS as a channeling agent for requesting information from and distributing information to the U.S. Department of Justice or any governmental agency.
8. **NMLS as agent to distribute non-criminal background information.** In order to expedite the processing of all applications, including obtaining independent credit reports and information related to administrative, civil or criminal findings by any governmental jurisdiction, the superintendent is authorized to use the NMLS as a channeling agent for requesting and distributing information to and from any source.

9. **Background information.** In connection with an application for licensing as a mortgage loan originator, the applicant shall, at a minimum, furnish to the NMLS and the superintendent, as required by the superintendent, information concerning the applicant's identity, including:
- (a) Fingerprints for submission to the Federal Bureau of Investigation for a state, national and international criminal history background check, and
 - (b) Personal history and experience in a form prescribed by the NMLS, including the submission of authorization for the NMLS to obtain:
 - an independent credit report from a consumer reporting agency
 - information related to any administrative, civil or criminal findings
 - (c) The current business name and principal address of the originating entity employing the applicant or with which the applicant has an affiliation; and
 - (d) Such other pertinent information as the superintendent may require.

599-e. Issuance of a license.

1. **Findings.** Notwithstanding any other law, the superintendent shall not issue a mortgage loan origination license unless he or she makes, at a minimum, the following findings:
- (a) **No license revocation.** That the applicant has never had a mortgage loan originator authorization, license or license equivalent revoked in any governmental jurisdiction;
 - (b) **No felony conviction.** That the applicant has not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court:
 - During the seven-year period preceding the date of the application for licensing; or
 - At any time preceding such date of application, if such felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering,
- Note:** For purposes of this subdivision, the superintendent may, at his or her discretion, disregard a conviction where the felon has been pardoned;
- (c) **Character and fitness.** That the applicant has demonstrated financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a determination that the MLO will operate honestly, fairly, and efficiently;
 - (d) **Pre-licensing education.** That the applicant has completed the pre-licensing education requirement;
 - (e) **Written test.** That the applicant has passed a written test that meets the test requirement;
 - (f) **Surety bond.** That the applicant has met the surety bond requirement described in section 599-k of this article; and

- (g) **Affiliation.** Unless the superintendent waives the affiliation requirement pursuant to regulations adopted by the banking board, that the applicant is employed by, or is an independent contractor of:
- an originating entity
 - solely in the case of a mortgage loan originator engaged in the origination of residential mortgage loans on manufactured homes.
 - in the case of a mortgage loan originator engaged in mortgage loan servicing and employed by a mortgage loan servicer, an entity registered as a mortgage loan servicer under article 12-D of this chapter or exempt from registration under such article.

Note: A mortgage loan originator may not be simultaneously employed or affiliated with more than one originating entity.

2. **Disqualifying associations.** The superintendent may refuse to issue a license pursuant to this article if he or she shall find that the applicant;
- (a) has been a director, partner, or substantial stockholder of an originating entity which has had a registration or license revoked by the superintendent or a regulator of another state that regulates such originating entity,
 - (b) has been an employee, officer or agent of, or a consultant to, an originating entity that has had a registration or license revoked by the superintendent or a regulator of another state that regulates such originating entity where such person shall have been found by the superintendent or by such regulator of another state to bear responsibility for the acts resulting in such revocation.

Note: A person shall be deemed to have been convicted of a crime if such person pled guilty or nolo contendere to a charge before a court or magistrate, or was found guilty by the decision or judgment of a court or magistrate or by the verdict of a jury, irrespective of the pronouncement of sentence.

3. **Issuance of a license.** The superintendent, after making the findings required by subdivision one of this section shall issue a license to the applicant as mortgage loan originator. The superintendent shall transmit one copy of such certificate to the applicant and file another in his or her office, and transmit notice of approval to the originating entity for which the applicant is providing services.

Note: The license shall be deemed to terminate at the end of the annual license period, unless the license is renewed.

599-f. Pre-licensing educational requirements (PE).

1. **Minimum educational requirements.** In order to meet the pre-licensing education (PE) requirement, a person shall complete at least 20 hours of approved education which shall include at least the following minimum requirements:
 - (a) Three hours of federal law and regulations;
 - (b) Three hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues;
 - (c) Two hours of training related to lending standards for the nontraditional mortgage product marketplace; and
 - (d) Three hours of training on applicable New York State law and regulations as may be approved by the superintendent.

2. **Approved education courses.** For purposes of subdivision one of this section, pre-licensing education courses shall be such courses, including the course provider, as shall have been reviewed, and approved, by the NMLS based upon reasonable standards. An hour of education for purposes of this article shall be as defined by the NMLS.

3. **Employer and affiliate education courses.** Nothing in this section shall preclude any pre-licensing education course, as approved by the NMLS, that is provided by the employer of the applicant or an entity that is affiliated with the applicant.

4. **Venue of education.** Pre-licensing education may be offered either in a classroom, instructor lead online or by any other means approved by the NMLS.

5. **Reciprocity of education courses.** Pre-licensing education courses approved by the NMLS pursuant to paragraphs (a), (b) and (c) of subdivision one of this section for any state shall be accepted as credit towards completion of pre-licensing education requirements in New York State.

6. **Re-licensing educational requirements.** An individual licensed under this article subsequent to its effective date applying to be licensed again must prove that he or she has completed all the Continuing Education (CE) requirements for the year in which the license was last held.

599-g. Testing of mortgage loan originators.

1. **General requirements.** In order to meet the written test requirement, an individual shall pass a qualified written test developed by the NMLS and administered by a test provider approved by the NMLS.
2. **Qualified test.** A written test shall not be treated as a qualified written test unless the test adequately measures the applicant's knowledge and comprehension in appropriate subject areas, including the following:
 - (a) Ethics;
 - (b) Federal law and regulation pertaining to mortgage origination;
 - (c) New York State law and regulation pertaining to mortgage origination; and
 - (d) Federal and state law and regulation, including instruction on fraud, consumer protection, the nontraditional mortgage marketplace, and fair lending issues.
3. **Testing location.** Nothing in this section prohibits a test provider approved by the NMLS from providing a test at the location of the employer of the applicant or the location of any subsidiary or affiliate of such entity, or the location of any entity with which the applicant holds an exclusive arrangement to conduct the business of a mortgage loan originator.
4. **The following conditions apply to individuals taking the competency tests:**
 - (a) An individual shall not be considered to have passed a qualified written test unless the individual shall have achieved a test score of not less than 75% answers to questions;
 - (b) An individual may retake a test three consecutive times, with each consecutive re-taking occurring at least 30 days after the preceding test;
 - (c) After failing three consecutive re-tests, an individual shall wait at least six months before taking the test again; and
 - (d) A licensed mortgage loan originator who fails to maintain a valid license for a period of five years or longer, not taking into account any time during which the individual is a registered mortgage loan originator, shall retake the test.

Real Life Scenario #2: Joe attempts the test

Joe Perry initially took and failed the national test component on May 1st. He took it again on June 3rd and failed. Joe took the test again on July 5th and failed. Joe is persistent and wants to attempt the test one more time.

What would be the soonest date Joe could schedule the next test retake?

599-h. Mortgage call reports.

Each originating entity shall submit to the NMLS reports of condition, which shall be in such form and shall contain such information as the NMLS may require.

599-i. Standards for license renewal; inactive status.

1. **Standards for renewal.** The following minimum standards for license renewal for mortgage loan originators are hereby established:
 - (a) The mortgage loan originator must continue to meet the minimum standards for license issuance set forth in section 599-e of this article;
 - (b) The mortgage loan originator must satisfy the annual continuing education (CE) requirements described in section 599-j of this article; and
 - (c) The mortgage loan originator must have paid all required fees for the renewal of the license.
2. **Failure to satisfy standards.** The license of a mortgage loan originator failing to satisfy the minimum standards for renewal shall terminate. In the event the licensed mortgage loan originator fails to pay such fee or otherwise satisfy this section, then the department shall notify the originating entity of the termination of the license. Such license shall be reinstated, in the case of a licensed mortgage loan originator failing to timely pay such fee, if the licensed mortgage loan originator pays the renewal fee within 60 days of such due date.
3. **Submission of annual request.** An annual request for renewal of a license as a mortgage loan originator shall be affirmed by the mortgage loan originator and submitted electronically, including through the NMLS, in a manner as may be prescribed by the superintendent.
4. **Inactive status.** The license of a mortgage loan originator is not effective during any period during which the mortgage loan originator is not employed by, or is an independent contractor of, an originating entity. When a mortgage loan originator ceases to be employed by, or is an independent contractor of, an originating entity, the originating entity shall promptly notify the superintendent of the termination date of the employment or affiliation.

Note: The license of the mortgage loan originator shall be placed in inactive status until the superintendent receives written or electronic notice of the mortgage loan originator's new employment or affiliation. A mortgage loan originator shall continue to pay the annual license fee and to take required education courses while in inactive status.

599-j. Continuing Education for mortgage loan originators (CE).

1. **Continuing education requirements.** In order to meet the annual continuing education requirements referred to in section 599-i of this article, a licensed mortgage loan originator shall complete, beginning in the year after the individual is licensed, at least 11 hours of education approved in accordance with subdivision two of this section, which shall include at least:
 - (a) Three hours of Federal law and regulations;
 - (b) Two hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues;
 - (c) Two hours of training related to lending standards for the nontraditional mortgage product marketplace; and
 - (d) Three hours of training on applicable New York State law and regulations.
2. **Approved education courses.** Continuing education courses shall be reviewed and approved by the NMLS based upon reasonable standards. Review and approval of a continuing education course shall include review and approval of the course provider.
3. **Employer and affiliate education courses.** Nothing in this section shall preclude any education course approved by the NMLS that is provided by the employer of the mortgage loan originator or an entity, which is affiliated with the mortgage loan originator by an agency contract.
4. **Venue of education.** Continuing education may be offered either in a classroom, online or by any other means approved by the NMLS.
5. **Calculation of credits.** A licensed mortgage loan originator (MLO):
 - (a) Except for subdivision nine of this section, may receive credit for a continuing education course only in the calendar year in which the course is taken; and
 - (b) May not take the same approved course in the same or successive years to meet the annual requirements for continuing education.
6. **Instructor credit.** A licensed mortgage loan originator who is an instructor of an approved continuing education course may receive credit for the licensed mortgage loan originator's own annual continuing education requirement at the rate of two hours credit for every one hour taught.
7. **Reciprocity of education.** A person having successfully completed the education requirements approved by the NMLS pursuant to paragraphs (a), (b), and (c) of subdivision one of this section for any state shall be accepted as credit towards completion of continuing education requirements in New York state.
8. **Lapse in license.** A licensed mortgage loan originator who subsequently becomes unlicensed must complete the continuing education requirements for the last year in which the license was held prior to issuance of a new or renewed license.

9. **Make up of continuing education.** An individual meeting the requirements of paragraphs (a) and (c) of subdivision one of section 599-i of this article may make up any deficiency in continuing education as established by rule or regulation of the superintendent.

599-k. Required surety bond.

1. Each mortgage loan originator shall be covered by a surety bond in accordance with this section. In the event that the mortgage loan originator is an employee or exclusive agent of an originating entity, the surety bond of such person may be used to satisfy the mortgage loan originator's surety bond requirement; provided that such surety bond contains coverage for each mortgage loan originator not otherwise covered by a qualifying surety bond in an amount prescribed.

Note: The surety bond shall be in a form prescribed by the superintendent. The superintendent may promulgate rules or regulations with respect to the requirements for such surety bonds as are necessary to accomplish the purposes of this article.

2. The penal amount of the required surety bond shall be maintained in an amount that reflects the dollar amount of loans originated by the mortgage loan originator as determined by the superintendent.
3. When an action is commenced on a licensee's bond, the superintendent may require the filing of a new or supplemental bond.
4. Immediately upon recovery of any claim or action on or under the bond, the mortgage loan originator (or the originating entity as the case may be), shall file a new or supplemental bond restoring the face amount of the bond to the amount required by the superintendent.

599-l. Reports by the superintendent; permissive challenges by licensees.

1. The superintendent shall report on a regular basis, not more than annually, all violations of this article, as well as enforcement actions and other relevant information, to the NMLS.
2. The superintendent shall establish a process whereby a mortgage loan originator may challenge information entered into the NMLS by the superintendent.

599-m. Required records and reporting.

1. **Educational records.** Each originating entity shall obtain and retain acceptable documentation of the satisfactory completion of education courses required by each mortgage loan originator employed by or affiliated with such originating entity and provide such documentation at the request of the superintendent. Such documentation shall be retained by an originating entity for six years.

Note: An originating entity shall retain a copy of any original proof or record of completion provided by a mortgage loan originator. In those instances when an originating entity also retains the original proof or record of such completion of any then applicable education requirement, the originating entity shall provide the original proof or record, upon request, when a mortgage loan originator terminates or has terminated his or her employment or affiliation with the originating entity.

2. **List of licensed mortgage loan originators.** The superintendent shall maintain upon the internet web-page of the department a list of the mortgage loan originators licensed and in good standing. Such list shall indicate the name, license number and current originating entity, if any, employing each mortgage loan originator or with whom such mortgage loan originator is affiliated.

3. **Reports by originating entities.** Each originating entity shall on a quarterly basis in each calendar year provide the superintendent, in written or electronic form, a list of the mortgage loan originators employed by, or affiliated with, the originating entity.

Note: the originating entity shall also advise in such report of any dismissal for cause of a mortgage loan originator employed by, or affiliated with, the originating entity during such quarter, which is due or based upon an alleged violation of this chapter or any law involving real property.

4. **Reports by mortgage loan originators.** Each mortgage loan originator shall promptly notify the superintendent of the following:
 - (a) A change in his or her primary residence address;
 - (b) Any felony conviction or pending felony charges; any charge of or conviction with respect to a misdemeanor involving financial services or a financial services related business; or any charge or conviction involving fraud, false statements or omissions, theft or wrongful taking of property, bribery, perjury, forgery or extortion subsequent to initial authorization;
 - (c) Any termination of or resignation from employment or affiliation with an originating entity;

- (d) Any initiation, settlement or resolution of any complaint, action or proceeding brought against him or her by a state or federal governmental unit or self-regulatory organization in connection with a financial services-related activity or business or involving fraud, misrepresentation, consumer deception, larceny or perjury;
- (e) Any initiation, settlement or resolution of any other civil action or proceeding against him or her involving fraud, misrepresentation, larceny or perjury; and
- (f) Any other matters as directed by the superintendent.

599-n. Enforcement authority; grounds for suspension or revocation of a mortgage loan originator license; restitution.

1. **Licensee revocation.** The superintendent may revoke a license to engage in business as a mortgage loan originator if he or she finds, after notice and a hearing, that:
 - (a) Through a course of conduct, the licensee has violated any provisions of this article, or any regulation promulgated by the banking board, or any rule or regulation prescribed by the superintendent under this article or article 12-D of this chapter or other applicable law, rule or regulation of this state or the federal government pertaining to mortgage banking, brokering or loan originating; or
 - (b) Any fact or condition exists which, if it had existed at the time of the original application for such license, would have warranted the superintendent to refuse to issue such initial license.
2. **Restitution.** The superintendent may order a mortgage loan originator or any other person to pay restitution for violations of this article or any rules of the banking board or the superintendent.
3. **Suspension; termination.**
 - (a) The superintendent may, for good cause, or where there is a substantial risk of public harm, without notice or a hearing, issue an order suspending the license of any mortgage loan originator for a period not to exceed **90 days** for investigation.

Note: "Good cause" exists only when the mortgage loan originator has engaged or engages in dishonest or inequitable practices or practices which demonstrate incompetent mortgage loan originating, which practices may cause substantial harm to the persons afforded the protection of article 12-D of this chapter, or the license of the mortgage loan originator was revoked in another state or jurisdiction participating in the NMLS.

- (b) The superintendent may, without notice or a hearing, issue an order suspending any license:
- **30 days** after the date the mortgage loan originator fails to file any report required to be filed with the superintendent; or
 - immediately upon notice that any required surety bond is no longer in effect.
- (c) If the superintendent has issued an order suspending a license, such license may be reinstated if the superintendent determines, at his or her sole discretion after investigation, that good cause therefore did not exist or no longer exists. If the superintendent has issued an order suspending a license pursuant to paragraph (b) of this subdivision, such license may be reinstated, if the superintendent determines, in his or her sole discretion, that the licensee has cured all deficiencies set forth in such order by the close of business **90 days** after the date of such suspension order.

Note: Otherwise, in case of a suspension pursuant to paragraph (b) of this subdivision, unless the superintendent has, at his or her sole discretion, extended such suspension, the license of such mortgage loan originator shall be deemed to be automatically terminated by operation of law at the close of business on such ninetieth day.

4. **Requirement for a hearing.** Except as provided in subdivision three of this section, no license shall be revoked or suspended except after notice and a hearing.

Note: Any order of suspension issued after notice and a hearing may include as a condition of reinstatement that restitution be made to consumers of fees or other charges, which have been improperly charged or collected as determined by the superintendent.

5. **Surrender of license.** With the prior consent of the superintendent, any mortgage loan originator may surrender any license by delivering to the superintendent written notice that he or she thereby surrenders such license.

Note: Such surrender shall not affect the mortgage loan originator's civil or criminal liability for acts committed prior to the surrender or its obligations to the superintendent for assessments, fees or administrative actions with respect to the periods before such surrender.

6. **Continuation of liability.** A suspension, revocation or termination of a license shall not affect the mortgage loan originator's civil or criminal liability for acts committed prior to such suspension, revocation or termination or its obligations to the superintendent for assessments, fees or administrative actions for to the periods before such suspension, revocation or termination.

7. **Continuation of contracts.** No revocation, suspension, surrender or termination of any license under this article shall impair or affect the obligation of any preexisting lawful contract between any licensee under article 12-D of this chapter and any person.
8. **Continuation of license.** Every license issued pursuant to this article shall remain in force and effect until the same shall have been surrendered, revoked, terminated or suspended.
Note: The superintendent has authority at his or her sole discretion to reinstate a suspended license or to issue a new license to a mortgage loan originator whose license shall have been revoked or terminated if no fact or condition then exists which would have warranted the superintendent to refuse to issue such initial authorization.
9. **Notice of revocation or suspension; review.** Whenever the superintendent revokes or suspends a license, he or she shall execute multiple copies of a written order to that effect. The superintendent shall file one copy of the order in the office of the department and serve a copy to the mortgage loan originator and any affected originating entity.
Note: Any such order may be reviewed in the manner provided by article 78 of the civil practice law and rules. Such application for review as authorized by this section must be made **within 30 days** from the date of such order of suspension or revocation.
10. **Notice of termination.** Whenever a license shall have terminated, the superintendent shall notify the mortgage loan originator and any affected originating entity that the license has terminated and that the mortgage loan originator may not engage in the business of soliciting, processing, placing or negotiating a mortgage loan or offering to solicit, process, place or negotiate a mortgage loan in the state of New York.
11. **Hearing requirements.** Any hearing held pursuant to the provisions of this section shall be subject to the provisions of the state administrative procedure act.

599-o. Rules, regulations and examinations.

1. The superintendent is hereby authorized and empowered to make such rules and regulations and interim procedures for licensing and acceptance of applications as may in his or her judgment be necessary or appropriate for the effective administration or enforcement of this article.
Note: For individuals previously authorized to act as mortgage loan originators under this chapter, the superintendent may establish expedited review and licensing procedures.

2. For the purpose of discovering violations the superintendent may at any time, and as often as he or she may determine, investigate the business and examine the books, accounts, records, and files of every licensee under this article and any entity with which such individual is associated as an employee or independent contractor.

For that purpose:

- The superintendent shall have free access to the offices and places of business, books, accounts, papers, records, files, safes and vaults of all such entities.
- The superintendent shall have authority to require the attendance of and to examine under oath all persons whose testimony he or she may deem necessary or desirable relative to such business.
- The expenses incurred in making any examination shall be assessed against and paid by the licensee so examined.
- Traveling and subsistence expenses so incurred shall be charged against and paid by licensees in such proportions, as the superintendent shall deem just and reasonable.
- Such proportionate charges shall be added to the assessment of the other expenses incurred upon each examination.
- Upon written notice by the superintendent of the total amount of such assessment, the licensee shall become liable for and shall pay such assessment to the superintendent.

599-p. Unique identifier.

The unique identifier of any person originating a residential mortgage loan shall be clearly shown on all residential mortgage loan application forms, solicitations or advertisements, including business cards or websites, and any other documents as established by rule, regulation or order of the superintendent.

599-q. Confidentiality.

In order to promote more effective regulation and reduce regulatory burden through supervisory information sharing, information provided to the superintendent by an MLO shall be subject to the following:

1. Except as otherwise provided in public law 110-289, section 1512, the requirements under any federal law, the freedom of information law ("FOIL") or other law of this state regarding the privacy or confidentiality of any information or material provided to the NMLS, shall continue to apply to such information or material after the information or material has been disclosed to the NMLS.

- Note:** Such information and material may be shared with all state and federal regulatory officials with mortgage industry oversight authority without the loss of privilege of the loss of confidentiality protections provided by federal law, FOIL or this chapter.
2. The superintendent is authorized to enter into agreements or sharing arrangements with other governmental agencies, the Conference of State Bank Supervisors (CSBS), the American Association of Residential Mortgage Regulators (AARMR) or other associations representing governmental agencies as established by rule, regulation or order of the superintendent.

599-r. Construction.

Nothing contained in this article shall be deemed to impair, alter or render ineffective any provision of article 12-D of this chapter, including but not limited to any provision thereof relating to issuing, suspending or revoking any mortgage banker license or mortgage broker registration.

Section VIII
New York State Banking Laws

Part C
Article 12-D:
Licensed Mortgage Bankers

Introduction

New York Mortgage Brokers have been under regulation of the Banking Department of New York since April 1, 1987. The Banking Department's authority comes from Banking Law Article 12-D. New York's Regulation of mortgage brokers was considered very unrestrictive when compared to other states' regulations until the passage of the SAFE Act forced them to amend their laws in order to align themselves with the new mandates.

Provisions of 12-D include:

- Licensing definitions
- Who is required to be licensed and who is not
- Broker responsibilities
- Application fees and protocols
- Grounds for revocation and suspension of licenses
- Advertising restrictions and required disclosures
- Regulation of mortgage servicers
- Penalties and recourse

New York State Mortgage Banking Regulations and Statutes Article 12-D
Licensed Mortgage Bankers
Sections: 589-599

Section 589. Declaration of policy.

- 590. Licensing.
- 590-a. Junior mortgage loans.
- 590-b. Responsibilities.
- 591. Application for a mortgage banker's license; fees.
- 591-a. Application to register as a mortgage broker; fees.
- 592. Application process to receive license to engage in the business of mortgage banking.
- 592-a. Application process to register as a mortgage broker.
- 593. License provisions.
- 593-a. Registration provisions.
- 594. Changes in officers and directors.
- 594-b. Changes in control.
- 595. Grounds for suspension or revocation of license, or suspension or deletion of name from mortgage broker roll.
- 595-a. Regulation of mortgage brokers, mortgage bankers and exempt organizations.
- 595-b. Regulation of mortgage loan servicers.
- 596. Superintendent authorized to examine; expenses.
- 597. Books and records; reports and electronic filing.
- 598. Additional penalties for violation of this article; civil, criminal; liquidated damages.
- 599. Separability of provisions.

589 Declaration of policy

The origination, funding and servicing of residential mortgage loans and the types of entities involved in residential mortgage lending has undergone significant changes in recent years, due in part to developments in the general economy, specifically interest rate volatility, the sophistication of the national secondary market for mortgage loans and the market for mortgage-backed securities. Depository institutions, traditionally the major source of residential mortgage financing for individuals, now compete for capital and customers with mortgage bankers and other financial service organizations.

Residential mortgage lenders of every type have increasingly relied on non-financial intermediaries, such as mortgage brokers, to make loans available to consumers. The activities of lenders and their agents offering financing for residential real property have a direct and immediate impact upon the housing industry, the neighborhoods and communities of this state, its homeowners and potential homeowners. The legislature finds that it is essential for the protection of the citizens of this state and the stability of the state's economy that reasonable standards governing the business practices of mortgage lenders and their agents be imposed.

Consistent with the purposes of promoting mortgage lending for the benefit of our citizens by responsible providers of mortgage loans and services and avoiding requirements inconsistent with legitimate and responsible business practices in the mortgage lending industry, the purpose of this article is to protect New York consumers seeking a residential mortgage loan and to ensure that the mortgage lending industry is operating fairly, honestly and efficiently, free from deceptive and anti-competitive practices.

590. Licensing.

1. Definitions.

- (a) **"Mortgage loan"** shall mean a loan to a natural person made primarily for personal, family or household use, primarily secured by either a mortgage on residential real property or certificates of stock or other evidence of ownership interests in, and proprietary leases from, corporations or partnerships formed for the purpose of cooperative ownership of residential real property;
- (b) **"Residential real property"** shall mean real property located in this state improved by a one-to-four family dwelling used or occupied, or intended to be used or occupied, wholly or partly, as the home or residence of one or more persons, but shall not refer to unimproved real property upon which such dwellings are to be constructed;

- (c) **"Making a mortgage loan"** shall mean for compensation or gain, either directly or indirectly, advancing funds, offering to advance funds, or making a commitment to advance funds to an applicant for a mortgage loan or a mortgagor as a mortgage loan;
- (d) **"Soliciting, processing, placing or negotiating a mortgage loan"** shall mean for compensation or gain, either directly or indirectly, accepting or offering to accept an application for a mortgage loan, assisting or offering to assist in the processing of an application for a mortgage loan, soliciting or offering to solicit a mortgage loan on behalf of a third party or negotiating or offering to negotiate the terms or conditions of a mortgage loan with a lender on behalf of a third party;
- (e) **"Exempt organization"** shall mean any insurance company, banking organization, foreign banking corporation licensed by the superintendent or the comptroller of the currency to transact business in this state, national bank, federal savings bank, federal savings and loan association, federal credit union, or any bank, trust company, savings bank, savings and loan association, or credit union organized under the laws of any other state, or any instrumentality created by the United States or any state with the power to make mortgage loans.
- (f) **"Licensee" or "mortgage banker"** shall mean a person or entity who or which is licensed pursuant to section 591 of this chapter to engage in the business of making mortgage loans in this state;
- (g) **"Registrant" or "mortgage broker"** shall mean a person or entity registered pursuant to section 591-a of this chapter to engage in the business of soliciting, processing, placing or negotiating mortgage loans for others, or offering to solicit, process, place or negotiate mortgage loans for others;
- (h) **"Mortgage loan servicer" or "servicer"** shall mean a person or entity registered pursuant to subdivision two of this section to engage in the business of servicing mortgage loans for property located in this state;
- (i) **"Servicing mortgage loans"** shall mean receiving any scheduled periodic payments from a borrower pursuant to the terms of any mortgage loan, including amounts for escrow accounts. In the case of a home equity conversion mortgage or reverse mortgage as referenced in section six-h of this chapter, sections 280 and 280-a of the real property law or 24 CFR 3500.2, servicing includes making payments to the borrower.

2. Necessity for license

- (a) No person, partnership, association, corporation or other entity shall engage in the business of making five or more mortgage loans in any one calendar year without first obtaining a license from the superintendent in accordance with the licensing procedure provided in this article and such regulations as may be promulgated by the banking board or prescribed by the superintendent.
- (b) No person, partnership, association, corporation or other entity shall engage in the business of soliciting, processing, placing or negotiating a mortgage loan or offering to solicit, process, place or negotiate a mortgage loan in this state without first being registered with the superintendent as a mortgage broker in accordance with the registration procedure provided in this article and by such regulations as may be promulgated by the banking board or prescribed by the superintendent. No real estate broker or salesman, as defined in section 440 of the real property law, shall be deemed to be engaged in the business of a mortgage broker if he does not accept a fee, directly or indirectly, for services rendered in connection with the solicitation, processing, placement or negotiation of a mortgage loan. No attorney-at-law who solicits, processes, places or negotiates a mortgage loan incidental to his legal practice shall be deemed to be engaged in the business of a mortgage broker.
- (b-1) No person, partnership, association, corporation or other entity shall engage in the business of servicing mortgage loans with respect to any property located in this state without first being registered with the superintendent as a mortgage loan servicer in accordance with the registration procedure provided by such regulations as may be prescribed by the superintendent.
- (c) A licensee registrant or mortgage loan servicer may apply for authority to open and maintain one or more branch offices.

3. Rules and regulations

In addition to such powers as may otherwise be prescribed by this chapter, the banking board is hereby authorized and empowered to promulgate such rules and regulations as may in the judgment of the banking board be consistent with the purposes of this article, or appropriate for the effective administration of this article, including, but not limited to:

- (a) The activities of mortgage brokers, mortgage bankers, mortgage loan servicers and exempt organizations as may be necessary and appropriate for the protection of consumers in this state;
- (b) To define improper or fraudulent business practices in connection with the activities of mortgage brokers, mortgage bankers, mortgage loan servicers and exempt organizations in making mortgage loans;

- (c) Such rules and regulations as may define the terms used in this article and as may be necessary and appropriate to interpret and implement the provisions of this article; and
- (d) Such rules and regulations as may be necessary for the enforcement of this article. The banking board is hereby authorized and empowered to make such specific rulings, demands and findings as it may deem necessary for the proper conduct of the mortgage lending industry.

4. Exemptions from provisions of article

No person shall be subject to the licensure or registration provisions of this article if he or she is employed by an exempt organization, a licensee or registrant, or a mortgage loan servicer to assist in the performance of the business activities described in this article for the exempt organization, licensee or registrant, or a mortgage loan servicer or is engaged in regulated activities as an associate or affiliate of a registrant, a licensee, a mortgage loan servicer or exempt organization which has filed an undertaking of accountability with the superintendent

5. Activities of mortgage brokers, mortgage bankers, mortgage loan servicers and exempt organizations

- (a) Mortgage brokers may not make mortgage loans in this state;
- (b) Mortgage brokers shall solicit, process, place and negotiate mortgage loans in conformity with the provisions of this chapter, such rules and regulations as may be promulgated by the banking board or prescribed by the superintendent thereunder and all applicable federal laws and the rules and regulations promulgated thereunder;
- (c) Mortgage bankers and exempt organizations shall make mortgage loans in conformity with the provisions of this chapter, such rules and regulations as may be promulgated by the banking board or prescribed by the superintendent thereunder and all applicable federal laws and the rules and regulations promulgated thereunder;
- (d) Mortgage loan servicers shall engage in the business of servicing mortgage loans in conformity with the provisions of this chapter, such rules and regulations as may be promulgated by the banking board or prescribed by the superintendent thereunder and all applicable federal laws and the rules and regulations promulgated thereunder.

Real Life Scenario #3: Carefree Mortgage goes to NY

Carefree Mortgage brokers specialize in VA loans with their principal office in Charlotte, NC and they are also licensed in NY with offices in Buffalo and Syracuse. One of the MLOs has a customer moving from NC to Buffalo and wants Carefree to do their VA purchase on the new home. Carefree Mortgage is accustomed to table funding all their VA loans in NC.

What steps does Carefree Mortgage need to do to take in order to make this loan?

5-a. Mortgage brokers and federal housing administration-insured mortgage loans

- (a) A mortgage broker may enter into agreements with federally-approved sponsors and make mortgage loans, which are insured by the federal housing administration, for sale or transfer to such sponsors, provided that such mortgage broker:
 - (i) meets all federal requirements as a loan correspondent and receives and maintains federal approval;
 - (ii) prior to making any such federal housing administration-insured mortgage loans, receives the superintendent's approval;
 - (iii) maintains the superintendent's approval;
 - (iv) enters into agreements only with federally-approved sponsors who are licensed mortgage bankers or exempt organizations;
 - (v) promptly notifies the superintendent when it enters into an agreement with a federally-approved sponsor and when any such agreement terminates. The federally-approved sponsor shall also promptly notify the superintendent when any such agreement with a mortgage broker terminates;
 - (vi) maintains a written agreement with its federally-approved sponsors to fund all federal housing administration-insured mortgage loans that the mortgage broker makes;
 - (vii) issues a lock-in agreement or commitment only after receiving approval for such agreement or commitment from its federally-approved sponsors; and
 - (viii) maintains at all times the federal net worth requirement.
- (b) A federally-approved sponsor is responsible to the superintendent for the actions of any mortgage broker which is its loan correspondent in regard to the making of a mortgage loan insured by the federal housing administration.
- (c) If a mortgage broker's federal approval is surrendered, suspended or revoked, the authorization granted pursuant to this subdivision shall immediately cease and the mortgage broker shall immediately notify the superintendent of the surrender, suspension or revocation.

590-a. Junior mortgage loans.

1. A licensee may make a loan to a natural person upon the security of a mortgage on residential real property, which is not a first lien at the rate or rates agreed to by the licensee and the borrower.
2. A contract, note or instrument evidencing or securing a junior mortgage loan shall not contain any acceleration clause which would provide that the junior mortgage loan may be declared due and payable upon the condition that the licensee deems itself insecure with respect to the unpaid balance of such junior mortgage loan; shall allow the borrower to prepay the loan in whole or in part without penalty, and shall contain the following notice in bold face type, at least ten point size:
"DEFAULT IN THE PAYMENT OF THIS LOAN AGREEMENT MAY RESULT IN THE LOSS OF THE PROPERTY SECURING THE LOAN. UNDER FEDERAL LAW, YOU MAY HAVE THE RIGHT TO CANCEL THIS AGREEMENT. IF YOU HAVE THIS RIGHT, THE CREDITOR IS REQUIRED TO PROVIDE YOU WITH A SEPARATE WRITTEN NOTICE SPECIFYING THE CIRCUMSTANCES AND TIMES UNDER WHICH YOU CAN EXERCISE THIS RIGHT."
3. Where the contract, note or instrument evidencing or securing a junior mortgage loan provides for a variable rate of interest, said rate shall be based on a published index that is
 - (a) readily available
 - (b) independently verifiable
 - (c) beyond the control of the licensee
 - (d) approved by the superintendent. The interest rate of the junior mortgage loan shall be reduced in proportion to any decrease in the index rate. Increases may be made at the option of the licensee.
4. The banking board shall adopt regulations, including but not limited to:
 - (a) providing for disclosure to the borrower by the licensee of the circumstances under which the rate may increase, any limitations on the increase, the effect of an increase and an example of the payment terms that would result from an increase,
 - (b) providing for disclosure to the borrower by the licensee of a history of the fluctuations of the index over a reasonable period of time, and
 - (c) providing for notice to the borrower from the licensee of any rate increase or change in the terms of payment.
5. A line of credit secured by a junior mortgage shall be established in an amount of no less than \$2,500.00; and shall be repayable in monthly installments.

590-b. Responsibilities.

1. Each mortgage broker shall, in addition to the duties imposed by otherwise applicable provisions of state and federal law;
 - (a) act in the borrower's interest;
 - (b) act with reasonable skill, care and diligence;
 - (c) act in good faith and with fair dealing;

- (d) not accept, give, or charge any undisclosed compensation that increases the benefit of the mortgage broker, whether or not characterized as an expenditure made for the borrower;
 - (e) clearly disclose to the borrower, **not later than three business days after receipt of the loan application**, all material information as specified by the superintendent that might reasonably affect the rights, interests, or ability of the borrower to receive the borrower's intended benefit from the home loan, including total compensation that the broker would receive from any of the loan options that the lender or mortgage broker presents to the borrower; and
 - (f) diligently work to present the borrower with a range of loan products for which the borrower likely qualifies and which are appropriate to the borrower's existing circumstances.
2. No lender or mortgage broker shall improperly influence or attempt to improperly influence the development, reporting, result or review of a real estate appraisal relating to real property securing a home loan, provided that it **shall not be a violation** of this prohibition to:
 - (a) ask an appraiser to consider additional information about a borrower's principal dwelling or about comparable properties;
 - (b) request that an appraiser provide additional information about the basis for a valuation;
 - (c) request that an appraiser correct factual errors in a valuation;
 - (d) obtain multiple appraisals of a borrower's principal dwelling, so long as the lender or mortgage broker adheres to a policy of selecting the most reliable appraisal, rather than the appraisal that states the highest value;
 - (e) withhold compensation from an appraiser for breach of contract or substandard performance of services;
 - (f) terminate a relationship with an appraiser for violations of applicable state or federal law or breaches of ethical or professional standards; and
 3. Any mortgage broker found by a preponderance of evidence to have violated subdivision one of this section, shall be liable to the borrower for actual damages.
 4. Any lender or mortgage broker found by a preponderance of evidence to have violated subdivision two of this section shall be liable to the borrower for actual damages.
 5. A borrower may be granted injunctive, declaratory, and such other equitable relief as the court deems appropriate in an action to enforce compliance.
 6. A court may also award reasonable attorneys' fees to a prevailing borrower in a foreclosure action.
 7. The attorney general or the superintendent may enforce this section.
 8. The remedies in this section are not the only remedies available to the borrower.

591. Application for a mortgage banker's license; fees.

1. The application for a license to be a mortgage banker shall be in writing, under oath, and in the form prescribed by the superintendent. If the applicant is a partnership, association, corporation, the application shall contain the names and complete business and residential addresses of each member, director and principal officer thereof. Such application shall also include a description of the activities of the applicant, as the superintendent may require; including:
 - (a) An affirmation of financial solvency noting such capitalization requirements as may be required by the superintendent,
 - (b) The fingerprints of the applicant,
 - (c) An affirmation that the applicant, or its members are at least 21 years of age;
 - (d) Information as to the character, fitness, financial and business responsibility, background and experiences of the applicant.
2. An application shall be accompanied by an investigation fee payable to the superintendent.
3. A licensee may apply for authority to open and maintain a branch office by giving the superintendent prior notice of its intention. Unless the superintendent denies the application **within 30 days** the licensee shall be permitted to open and maintain such branch office.
4. As a condition for the issuance and retention of a mortgage banker's license, applicants for a license shall file with the superintendent a surety bond issued by a bonding company or insurance company authorized to do business in this state. Such regulations shall provide for a varying bond amount based upon a licensee's volume of business and any other relevant factors as determined by the superintendent, but in no case shall such bond be less than \$50,000.00 nor more than \$500,000.00.

591-a. Application to register as a mortgage broker; fees.

1. An application to become registered as a mortgage broker shall be in writing, under oath, in such form as shall be prescribed by the superintendent, and shall be accompanied by the fingerprints of the applicant. Such application shall contain the name and complete business and residential address or addresses of the applicant, or if the applicant is a partnership, association, corporation or other form of business organization, the names and complete business and residential addresses of each member, director and principal officer thereof. Such application shall also include an affirmation of financial solvency noting such capitalization requirements as may be required by the superintendent. Such application shall be accompanied by an investigation fee payable to the superintendent.

2. A registrant may apply for authority to open and maintain a branch office by giving the superintendent prior notice of its intention. Unless the superintendent denies the application **within 30 days**, the registrant shall be permitted to open and maintain such branch office.
3. As a condition for the issuance and retention of a mortgage broker's registration, applicants for a registration shall file with the superintendent a surety bond or make a deposit, as described in subdivision four of section 591 of this article, in an amount and form prescribed by regulations of the superintendent. Such regulations shall provide for a varying bond amount based upon a registrant's volume of business, but in no case shall such bond be less than \$10,000.00 nor more than \$100,000.00

Note: In the event of the insolvency, liquidation or bankruptcy, the proceeds of each bond or deposit shall constitute a trust fund to be used exclusively to reimburse consumer fees improperly charged or collected and to pay past due banking department examination costs and assessments charged to the registrant, unpaid penalties, or other obligations of the registrant.

592. Application process to receive license to engage in the business of mortgage banking.

1. Upon the filing of an application for a license, if the superintendent finds that the financial responsibility, experience, character, and general fitness of the applicant and of the members thereof, if the applicant is a co-partnership or association, are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly, and efficiently within the purpose of this article, the superintendent shall issue a license in duplicate to engage in the business of making mortgage loans.

Note: If the superintendent shall not so find, the superintendent shall not issue such license, and the superintendent shall notify the applicant of the denial. Upon receipt of such license, a mortgage banker shall be authorized to engage in the business of making mortgage loans. Such license shall remain in full force and effect until it is surrendered by the licensee or revoked or suspended. The superintendent shall approve or deny every application for license within **90 days** from the filing of a completed application provided, however, that failure to act within the prescribed period shall not be deemed approval of any such application.

2. The superintendent may refuse to issue a license if he or she shall find that the applicant, officer, partner, agent, employee, substantial stockholder of the applicant, consultant or person having a relationship with the applicant similar to a consultant,

- (a) has been convicted of a crime involving an activity which is a felony under this chapter or any comparable felony under the laws of any other state or the United States, or
- (b) has had a license or registration revoked by the superintendent or
- (c) has been a director, partner, or substantial stockholder of an entity which has had a license or registration revoked by the superintendent or
- (d) has been an agent, employee or officer of an entity, which has had a license or registration revoked by the superintendent where such person shall have been found by the superintendent to bear responsibility in connection with the revocation.

Note: The term "**substantial stockholder**", as used in this subdivision, shall be deemed to refer to a person owning or controlling directly or indirectly ten per centum (10%) or more of the total outstanding stock of a corporation.

592-a. Application process to register as a mortgage broker.

1. Upon the filing of an application for registration, if the superintendent shall find that the financial responsibility, experience, character, and general fitness of the applicant are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly, and efficiently within the purpose of this article, the superintendent shall register the applicant as a mortgage broker and issue a certificate attesting to such registration in duplicate.

Note: If the superintendent shall not so find, the superintendent shall not register such applicant, and shall notify the applicant of the denial.

The superintendent shall transmit one copy of such certificate to the applicant and file another in the office of the banking department. Upon receipt of such certificate a mortgage broker shall be authorized to engage in the business of placing, processing and negotiating mortgage loans.

The registration shall remain in full force and effect until it is surrendered by the licensee or revoked or suspended, except that such registration shall expire upon the registrant's failure to pay the required assessment charged **30 days** after the date or dates such payment or payments are due. If the registrant fails to pay such charged assessment by the date such payments are due, then the registrant shall be required to pay, in addition, a late fee in the amount of \$100.00.

Note: The registration shall be reinstated if the registrant pays the assessment charged and any applicable late fees and/or interest within **60 days** of such expiration. The superintendent shall approve or deny every application within **90 days** from the filing of a complete application.

2. The superintendent may refuse to issue a certificate of registration if he or she finds that the applicant, or any person who is a director, officer, partner, agent, substantial stockholder of the applicant, consultant or person having a relationship with the applicant similar to a consultant,
 - (a) has been convicted of a crime involving an activity which is a felony under this chapter or any comparable felony under the laws of any other state or the United States, or
 - (b) has had a license or registration revoked by the superintendent or
 - (c) has been a director, partner, or substantial stockholder of an entity which has had a license or registration revoked by the superintendent or
 - (d) has been an agent, employee or officer of an entity, or a consultant to any entity which has had a license or registration revoked by the superintendent where such person shall have been found by the superintendent to bear responsibility in connection with the revocation.

Note: The term "**substantial stockholder**", refers to a person owning or controlling directly or indirectly ten percent (10%) or more of the total outstanding stock of a corporation.

593. License provisions.

Each license issued under this article shall state the address or addresses at which the business is to be conducted and state the name of the licensee, and the date and place of its incorporation if applicable.

Note Well: A copy of such license shall be prominently posted in each place of business of the licensee. Such license shall not be transferable or assignable. If the location changes the superintendent must be notified and, without charge, an amendment certificate will be attached to the license.

593-a. Registration provisions.

1. Each certificate issued to a registered mortgage broker under this article shall state the address or addresses at which the business is to be conducted and state fully the name of the registrant, and the date and place of its incorporation if applicable.

Note: A copy of such certificate shall be prominently posted in each place of business of the registrant. Such certificate shall not be transferable or assignable.

2. In addition to the display of such certificate, each registered mortgage broker shall prominently display a notice printed in the English language, each letter to be at least two inches in height, indicating that **the mortgage broker is not empowered to make mortgage loans**, and such other notices as required by the banking board.

594. Changes in officers and directors.

Upon any change of any of the executive officers, partners or directors of any licensee or registrant, the licensee or registrant shall submit to the superintendent the name, address, and occupation of each new officer, partner or director, and provide other information as the superintendent may require.

594-b. Changes in control.

1. It shall be unlawful except with the prior approval of the superintendent for any action to be taken which results in a change of control of the business of a licensee or registrant. Prior to any change of control, the person desirous of acquiring control of the business of a licensee or registrant must make written application to the superintendent and pay an investigation fee. The application shall contain such information as the superintendent, may prescribe as necessary or appropriate for the purpose of making the determination.
2. The superintendent shall approve or disapprove the proposed change of control in writing within **90 days** after the date the application is filed with the superintendent.
3. For a period of six months from the date of qualification and for such additional period of time as the superintendent may prescribe, in writing, the provisions of subdivisions one and two of this section shall not apply to a transfer of control by operation of law to the legal representative of one who has control of a licensee or registrant. Thereafter, such legal representative shall comply with the provisions of subdivisions one and two of this section.

Note: The term "**legal representative**", for the purposes of this section, shall mean one duly appointed by a court of competent jurisdiction to act as executor, administrator, trustee, committee, conservator or receiver of such court appointment.

4. As used in this section:
 - (a) the term "**person**" includes an individual, partnership, corporation, association or any other organization, and
 - (b) the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a licensee or registrant.

Note: Control shall be presumed to exist if any person, directly or indirectly, owns, controls or holds with power to vote ten per centum (10%) or more of the voting stock of any licensee or registrant.

595. Grounds for suspension or revocation of license, or suspension or deletion of name from mortgage broker roll.

1. The superintendent **may revoke any license** to engage in the business of a mortgage banker, or delete the name of a mortgage broker from the roll of mortgage brokers registered, **if he shall find** that:
 - (a) The licensee or registrant has **violated any provisions of this article**, or any rule or regulation promulgated by the banking board, or any rule or regulation prescribed by the superintendent within the authority of this article or of any other law, rule or regulation of this state or the federal government;
 - (b) Any fact or condition exists which, if it had existed at the time of the original application for such license or registration, would have warranted the superintendent in refusing originally to issue such license;
 - (c) The commission of **a crime against the laws of this state or any other state** or of the United States involving moral turpitude or fraudulent or dishonest dealing, or the entry of a final judgment against a licensee or registrant in a civil action upon grounds of fraud, misrepresentation or deceit;
 - (d) As a part of the determination regarding suspension or revocation, the superintendent is authorized to require the fingerprinting of any licensee or registrant and may be submitted to the federal bureau of investigation for a national criminal history record check.
2. The superintendent may, on good cause shown, or where there is a substantial risk of public harm, suspend any license or delete the name of any registrant for a period not exceeding **30 days**, pending investigation. "Good cause" shall exist only when the licensee or registrant has defaulted or is likely to default in performing its financial engagements or engages in dishonest or inequitable practices.
3. Except as provided in subdivision two, **no license or registration shall be revoked or suspended except after notice and a hearing**. Any order of suspension issued after notice and a hearing may include as a condition of reinstatement that the licensee or registrant make restitution to consumers of fees or other charges which have been improperly charged or collected.
4. **Any licensee or registrant may surrender any license** or certificate by delivering to the superintendent written notice that it thereby surrenders such license or certificate, but such surrender shall not affect such licensee's or registrant's civil or criminal liability for acts committed prior to such surrender.
- 4-a. An expiration of registration in accordance with section 592A of this article shall not affect such registrant's civil or criminal liability for acts committed prior to such expirations.

5. No revocation, suspension, surrender or expiration of any license or certificate shall impair or affect the obligation of any preexisting lawful contract between the licensee or registrant and any person.
6. Every license or registration issued shall remain in force and effect until the same shall have expired in accordance with section 592 or have been surrendered, revoked or suspended.

Note: The superintendent shall have authority to reinstate a suspended license or to issue a new license or certificate to a licensee or registrant whose license or registration revoked if no fact or condition then exists which would have warranted the superintendent in refusing originally to issue such license or registration under this article.

7. Whenever the superintendent revokes or suspends a license or registration issued, he shall execute in duplicate a written order to that effect. The superintendent will file one copy in the office of the department of banking and serve the other copy upon the licensee or registrant. Any such order may be reviewed as authorized by this section and must be made within from the date of such order of suspension or revocation.
- 7-a. Whenever a registration has expired in accordance with section 592-a of this article, the superintendent shall notify the registrant that the registration has expired and that the registrant may not engage in the business of soliciting, processing, placing or negotiating a mortgage loan or offering to solicit, process, place or negotiate a mortgage loan in this state.

595-a. Regulation of mortgage brokers, mortgage bankers and exempt organizations.

1. **Establishment of grounds to impose a fine or penalty.** In addition to other rules, the banking board shall promulgate regulations and policies governing the establishment of grounds to impose a fine or penalty with respect to the activities of a mortgage banker, mortgage broker or exempt organization.

Such regulation shall encompass the following:

- (a) The misrepresentation of material facts or the making of false promises likely to influence, persuade, or induce an applicant for a mortgage loan or mortgagor to take a mortgage loan.
- (b) The misrepresentation, or concealment of any material factors, terms or conditions of a transaction to which he is a party, including the receipt of payment from a third party.
- (c) The failure to disburse funds in accordance with a written commitment or agreement.

- (d) The failure to account for or deliver to any person any personal property obtained in connection with a mortgage loan such as money, fund, deposit, check, draft, mortgage, or other document, or thing of value, which has come into his hands, and which is not his property.
 - (e) The improper refusal to issue a satisfaction of mortgage;
 - (f) Engaging in any transaction, practice, or course of business, which operates a fraud upon any person in connection with the purchase or sale of any mortgage loan;
 - (g) Violation of section six-j of this chapter; and
 - (h) Making a mortgage loan, or indirectly or directly providing for the making of a mortgage loan, to an equity purchaser, if the mortgage banker, mortgage broker or exempt organization had knowledge that the equity purchaser was not complying with the provisions of section 265A of the real property law.
2. **Restrictions on advertising.** In addition to such other rules, the banking board shall prescribe regulations governing the advertising of mortgage loans, including, the following requirements:
- (a) All advertisements by a mortgage broker, mortgage banker shall contain the name and an office address of such entity.
 - (b) No licensed mortgage broker or mortgage banker shall advertise its services in any media, whether print or electronic, without the words "registered mortgage broker" or "licensed mortgage banker".
 - (c) No mortgage broker, mortgage banker or exempt organization shall advertise information concerning mortgage loans, including rates, margins, discounts, points, fees, commissions or other material information, unless such entity is able to make such mortgage loans available to a reasonable number of qualified applicants;
 - (d) All advertisements by mortgage brokers must include language indicating that such brokers may not make loans; and
 - (e) The term "**advertisement**" shall not include promotional material containing 15 words or less which does not contain references to specific rates, points, discounts, fees, material loan factors, etc., such as imprinted pencils, pens or balloons.

3. **Required disclosures.** The banking board shall promulgate regulations governing the disclosure required to be made to applicants for a mortgage loan, including, the following requirements:
- (a) Each mortgage broker and mortgage shall provide to each applicant for a mortgage loan at or before the time of application a disclosure of the fees payable at the time of application and the conditions under which such fees may be refundable.
 - (b) Each mortgage banker shall make available to each applicant for a mortgage loan at or before the time a commitment to make a mortgage loan is given a written disclosure, the fees to be paid in connection with the commitment and the loan and the conditions under which such fees may be refundable.
 - (c) In each lock-in agreement, every mortgage banker and exempt organization shall include a list of all documents typically required to be produced and conditions typically required to be satisfied for closing of a mortgage loan based on information provided by the applicant.

Note: In addition, **no later than 12 business days prior** to the expiration of any lock-in period or commitment period, a mortgage banker shall mail to each applicant for a mortgage loan a notice indicating the date of expiration together with a request that the applicant contact the lender immediately to discuss the conditions precedent to the closing of such loan; and

4. **Restrictions on tying.** No mortgage banker, mortgage broker shall, as a condition for the approval of a mortgage loan, require the use of a particular title insurance company, title insurance agency or title insurance agent or, for any other type of insurance, require the use of a particular insurer, agent or broker.

595-b. Regulation of mortgage loan servicers.

1. **Establishment of grounds to impose a fine or penalty.** The banking board may promulgate or the superintendent may prescribe regulations and policies governing the establishment of grounds to impose a fine or penalty with respect to the activities of a mortgage loan servicer.
2. **Servicing practices.** The banking board may prescribe regulations, which relate to:
 - (a) providing for disclosures to borrowers of the basis for any interest rate resets;
 - (b) requirements for the provision of pay-off statements; and
 - (c) governing the timing of the crediting of payments made by the borrower.

596. Superintendent authorized to examine; expenses.

For the purpose of discovering violations or securing information lawfully required by him, the superintendent may at any time, and as often as he or she may determine, either personally or by a person duly designated by him, investigate the business and examine the books, accounts, records, and files of every licensee, servicer and registrant.

The superintendent shall have free access to the offices and places of business, books, accounts, papers, records, files, safes and vaults of all such licensees, servicers and registrants.

Note: The superintendent shall have authority to require the attendance of and to examine under oath all persons whose testimony he or she may require relative to such business.

The expenses incurred in making any examination shall be assessed against and paid by the licensee, servicer or registrant so examined. Except that traveling and subsistence expenses so incurred shall be charged against and paid by licensees, servicers or registrants in such proportions as the superintendent shall deem just and reasonable.

Note Well: In any hearing in which the bank examiner acting under authority of this chapter is available for cross-examination, any official written report, worksheet, other related papers, or duly certified copy, by said examiner, may be admitted as competent evidence upon the oath of said examiner that said worksheet, investigative report, or other related documents were prepared as a result of an examination of the books and records of a licensee, servicer or registrant.

597. Books and records; reports and electronic filing.

Each licensee, servicer, registrant shall keep and use in its business such books, accounts and records as will enable the superintendent to determine whether such licensee, servicer, registrant is complying with the rules and regulations lawfully made by the superintendent and the banking board.

Every licensee, servicer, registrant and exempt organization shall preserve such books, accounts, and records, for **at least three years**; photographic reproduction or records in photographic form, including an optical disk storage system and the use of electronic data processing equipment that provides comparable records.

- Each licensee and registrant shall annually file a report with the superintendent giving such information as the superintendent may require concerning the business and operations during the preceding calendar year.
- In addition to annual reports, the superintendent may require additional regular or special reports as he or she may deem necessary to the proper supervision of licensees and registrants.

- The superintendent may require servicers to file annual reports or other regular or special reports, including reports with respect to mortgage delinquencies and foreclosures. Such reports shall be in the form prescribed by the superintendent and shall be affirmed as true under the penalties of perjury.

598. Additional penalties for violation of this article; civil, criminal; liquidated damages.

1. The superintendent may, after notice and hearing as provided elsewhere in this article, require any entity, licensee, servicer, registrant found violating the provisions of this article or the rules or regulations, to pay to the people of this state an additional penalty for each violation of the article.
2. Whoever violates any provision of the licensing requirements of subparagraphs (a) and (b) of subdivision 2 of section 590 of this article by making a mortgage loan without being licensed or specifically exempted from licensing, or soliciting, processing, placing or negotiating a mortgage loan without being registered or specifically exempted from registration, shall be guilty of a **class A misdemeanor**, punishable as provided in articles 70 and 80 of the penal law.
3. Liquidated damages. In addition to any other remedy which an applicant for a mortgage loan may have against a licensee or registrant for breach of contract or agreement to make a mortgage loan, the court after considering the circumstances may award the plaintiff, upon granting a judgment in his favor in an individual action on such claim, liquidated damages an amount **equal to twice the amount of any fees** or other charges paid by the applicant.
4. **Statutory or common-law remedies.** Nothing in this article shall limit any statutory or common-law right of any person to bring any action in any court for any act, or the right of the state to punish any person for any violation of any law.
5. **Civil penalties assessable against unlicensed or unregistered persons or entities.** If any non-exempt unlicensed or unregistered person or entity engages in activities encompassed by this article, he shall be liable to any person or entity affected by such activities for a sum of money of not less than the amount of money paid to an affected person or entity in connection with such activities, nor more than 4 times such sum.

599. Separability of provisions.

If any provision of this article, or the application of such provision to any person, co-partnership, association, corporation or circumstance, shall be held invalid, the remainder of the article, and the application of such provision to persons, co-partnerships, associations, corporations or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Section VIII

New York State Banking Laws

**Non-Banking Organizations:
Part 420 – Mortgage Loan Originators:
Licensing Requirements**

Introduction

The revised version of Part 420 was updated on December 17, 2009. The NY DOB adopted this revision in order to comply with the changes in Article 12-E of the Banking Law that became effective on July 11, 2009. Part 420 serves as the Superintendent's Regulation, which interprets Article 12-E and provides rules for the industry that the Superintendent will enforce.

In order for the state of New York to comply with the federal mandates of the 2008 SAFE Act, the legislature enacted Article 12-E, which encompasses the definitions and broad mandates of the act. Part 420, which is the subject of Section II, specifies:

- what entities and individuals must do in order to become state-licensed MLOs
- certain notices of approval and denial of licensure
- rules concerning the suspension, termination and renewal of licenses
- education, bonding and reporting requirements
- and, most importantly, the duties and prohibited conduct of MLOs

Part 420 goes beyond the legislation itself to give the public clear mandates for compliance and what the MLO can and cannot do in the practice of originating residential mortgage loans. In preparation for the state test, pay particular attention to section 420.19, 420.20 and 420.21 as these provisions are what a NY State Licensed MLO will be held accountable for and what actions or penalties will await the MLO that violates them.

Chapter III.B. Superintendent's Regulations [Subchapter B] - Non-Banking Organizations

Part 420 Mortgage Loan Originators: Licensing Requirements

(Statutory authority: Banking Law, Sections 39 and 44 and Article 12-D and Article 12-E)

Sec.

- 420.1 Mortgage loan originator license and revocation
- 420.2 Exemptions
- 420.3 Definitions
- 420.4 Application procedure for initial license as an MLO
- 420.5 Originating entities permitted to employ or contract with certain mortgage loan originators on an interim basis
- 420.6 Notice of approval or denial of application; license; and internet listing
- 420.7 Inactive status
- 420.8 Suspension and termination of license
- 420.9 Renewal of license
- 420.10 Surrender of license
- 420.11 Pre-licensing educational requirement
- 420.12 Approved education providers
- 420.13 Pre-license testing requirements
- 420.14 Continuing education requirements
- 420.15 Surety bonds
- 420.16 Reports; permissive challenges by licensees
- 420.17 Calculation and collection of fees
- 420.18 Duties of originating entity
- 420.19 Duties of MLO
- 420.20 Prohibited conduct
- 420.21 Administrative action and penalties
- 420.22 Effective date

Mortgage Banking Regulations and Statutes Chapter III.B. Superintendent's Regulations [Subchapter B]

Non-Banking Organizations

Part 420 Mortgage Loan Originators: Licensing Requirements

Updated December 17, 2009

Important Note: This is the text of a revised version of Part 420 that the Department has adopted in order to conform to changes in Article 12-E of the Banking Law which became effective on July 11, 2009. (Ch 123, L.2009). The Department has adopted these regulations on an emergency basis on Thursday, December 17, 2009.

(Statutory authority: Banking Law, Sections 39 and 44 and Article 12-D and Article 12-E)

§ 420.1 Mortgage loan originator license and revocation.

- (a) Section 599-c of the Banking Law provides that no individual, unless exempt, shall engage in mortgage loan originating without first obtaining and maintaining a license from the Superintendent pursuant to Article 12-E of the Banking Law. This regulation implements the Superintendent's authority to license mortgage loan originators.
- (b) Section 599-n of the Banking Law authorizes the Superintendent to revoke a license to engage in mortgage loan originating. In addition, Sections 599-i and 599-n set out the circumstances under which a license will be terminated by operation of law.

§ 420.2 Exemptions.

As provided in Section 599-c(3) of the Banking Law, the following individuals are exempt from the licensing requirements otherwise applicable under Article 12-E:

- (a) **Registered mortgage loan originators.** A registered mortgage loan originator (i.e. an individual who performs the functions of an MLO, who is employed by a depository institution, certain subsidiaries of a depository institution or an institution regulated by the Farm Credit Administration, and who is registered with the NMLS).
- (b) **Immediate family loans.** Any individual who offers or negotiates the terms of a residential mortgage loan with or on behalf of an immediate family member of the individual.
- (c) **Loans on an individual's residence.** Any individual who offers or negotiates terms of a residential mortgage loan secured by a dwelling or residential real property that, at the time of such negotiation, serves as the individual's own residence.

- (d) **Certain Attorneys.** A licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such lender, mortgage broker, or other mortgage loan originator.
- (e) **Servicer employees.** Any individual employed by a mortgage loan servicer registered under Article 12-D of the Banking Law, who negotiates any modification of an existing residential mortgage loan on behalf of such servicer, and does not otherwise act as a mortgage loan originator, unless licensing is required by a rule, regulation, guideline or interpretation issued by the U.S. Department of Housing and Urban Development under Public Law 110-289.
- (f) **Manufactured home sellers.** Any individual involved in the sale of manufactured homes, if exempted from licensing by a rule, regulation, guideline or interpretation issued by the U.S. Department of Housing and Urban Development under Public Law 110-289.
- (g) **Exemptions approved by the Superintendent.** The provisions contained in this Part shall not apply to such other individuals as the Superintendent may by order exempt for good cause.

§ 420.3 Definitions.

For purposes of this Part:

- (a) **"Annual Expiration Date"** with respect to any MLO means December 31 of each year.
- (b) **"Hour"** means a unit of time as defined by the NMLS.
- (c) **"Immediate family member"** means a spouse, child, sibling, parent, grandparent, or grandchild. The term includes stepparents, stepchildren, stepsiblings and adoptive relationships.
- (d) **"Individual"** means a natural person.
- (e) Loan processor or underwriter-
 1. **"Loan processor or underwriter"** means an individual who performs clerical or support duties as an employee at the direction of, and subject to the supervision and instruction of, an individual licensed, or exempt from licensing, under this Part, provided that such individual does not represent to the public, through advertising or other means of communicating or providing information, including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that such individual can or will perform any of the activities of a mortgage loan originator.

2. For purposes of this subdivision, "**clerical or support duties**" may include, subsequent to the receipt of an application:
 - i. the receipt, collection, distribution, and analysis of information common for the processing or underwriting of a residential mortgage loan; or
 - ii. communicating with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that such communication does not include offering or negotiating loan rates or terms, or counseling consumers about residential mortgage loan rates or terms.
- (f) "**Manufactured home**" means any manufactured home as defined in Uniform Commercial Code § 9-102(53) or mobile home included in the definition of dwelling as defined in Section 1203(v) of the Truth in Lending Act.
- (g) **Mortgage loan originator ("MLO")**
 1. means **an individual who for compensation or gain or in the expectation of compensation or gain:**
 - i. takes a residential mortgage loan application; or
 - ii. offers or negotiates terms of a residential mortgage loan.
 2. **MLO does not include:**
 - i. any individual engaged solely as a loan processor or underwriter except as otherwise provided in Section 599-c(4) of Article 12-E;
 - ii. an individual who performs only real estate brokerage activities and is licensed or registered in accordance with applicable New York law, unless the individual is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such lender, mortgage broker, or other mortgage loan originator; and
 - iii. an individual involved solely in extensions of credit relating to timeshare plans, as that term is defined in Section 101(53D) of title 11, United States Code.
 3. For purposes of this Part, "**real estate brokerage activity**" means any activity that involves offering or providing real estate brokerage services to the public, including:
 - i. acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property;
 - ii. bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property;
 - iii. negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property (other than in connection with providing financing with respect to any such transaction);

- iv. engaging in any activity for which an individual 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
 - v. offering to engage in any activity, or act in any capacity, described in subparagraphs (i), (ii), (iii), or (iv) of this paragraph.
- (h) **"Nationwide Mortgage Licensing System and Registry" ("NMLS")** means a mortgage licensing system and registry developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of licensed mortgage loan originators.
- (i) **"Originating entity"** means an individual or entity licensed or registered pursuant to Article 12-D, an individual or entity engaged in the origination of residential mortgage loans secured by manufactured homes licensed under Article IX or Article 11-B or such other employer of mortgage loan originators as the Superintendent may approve in writing.
- (j) **"Prior version"** means Article 12-E as in effect from January 1, 2008 to July 10, 2009.
- (k) **"Residential mortgage loan"** shall mean a loan to a natural person made primarily for personal, family or household use, secured by either a mortgage, deed of trust or other equivalent consensual security interest on a dwelling (as defined in Section 1203(v) of the Truth in Lending Act) or residential real property or any certificate of stock or other evidence of ownership in, and proprietary lease from, a corporation or partnership formed for the purpose of cooperative ownership of residential real property and shall include any refinance and, to the extent required by the Secretary of the U.S. Department of Housing and Urban Development, modification of any such existing loan.
- (l) **"Registered mortgage loan originator"** means any individual who:
1. Meets the definition of mortgage loan originator and is an employee of:
 - i. a depository institution;
 - ii. a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency; or
 - iii. an institution regulated by the Farm Credit Administration; and
 2. Is registered with, and maintains a unique identifier through, the NMLS under regulations adopted by the federal banking regulators.
 3. For purposes of this definition, the term **"Depository institution"** shall have the same meaning as in Section three of the Federal Deposit Insurance Act, and includes any credit union.

- (m) **"Residential real property"** shall mean real property located in this state improved by a one-to-four family dwelling in a building used or occupied, or intended to be used or occupied, wholly or partly, as the home or residence of one or more persons, but shall not refer to unimproved real property upon which such residence is to be constructed.
- (n) **"Unique identifier"** means a number or other identifier assigned by protocols established by the NMLS.

§ 420.4 Application procedure for initial license as an MLO.

- (a) **Effective date.** Effective July 11, 2009, no individual, unless exempt or permitted in accordance with the rules in subdivision (c) and subdivision (d) below, shall engage in mortgage loan originating without first being licensed by the Superintendent as an MLO pursuant to Article 12-E of the Banking Law. In order to facilitate an orderly transition to licensing and minimize disruption in the mortgage marketplace:
 1. Each individual required under Article 12-E to be licensed as an MLO, other than an individual described in paragraph (2) or (3) of this subdivision, shall be licensed pursuant to this Part not later than July 31, 2010, or such later date approved for mortgage loan originators in this state by the Secretary of the U.S. Department of Housing and Urban Development, pursuant to the authority granted under Public Law 110-289, Section 1508(a) and approved by the Superintendent;
 2. Each individual authorized as a mortgage loan originator under prior law not later than July 11, 2009, shall be licensed pursuant to this Part not later than January 1, 2011, or such later date approved for mortgage loan originators in this state by the Secretary of the U.S. Department of Housing and Urban Development, pursuant to the authority granted under Public Law 110-289, Section 1508(a) and approved by the Superintendent; and
 3. Notwithstanding paragraphs (1) and (2) of this subdivision, effective July 11, 2009, no individual shall act as a mortgage loan originator if such individual has been convicted of, or pled guilty or nolo contendere to, a felony of the types and during the time periods described in Section 599-e(1)(b) of Article 12-E.
- (b) **Submission of application.** Each applicant to become a licensed mortgage loan originator shall file an application in such form as shall then be required by the Superintendent.

Transition Rules. Each applicant described in this subdivision shall file an application as follows:

1. An individual who was engaged in mortgage loan origination activities as of July 11, 2009, who filed an application pursuant to the prior version of Article 12-E prior to such date, and whose application had not been approved, denied or withdrawn by the Superintendent, shall file with the Superintendent by November 30, 2009 all such additional information as the Superintendent may reasonably require to comply with the informational requirements of Article 12-E and shall satisfy the pre-licensing testing and educational requirements and bonding requirements of Article 12-E by May 31, 2010;
2. An individual who was engaged in mortgage loan origination activities with respect to manufactured homes as of July 11, 2009 shall file with the Superintendent by December 31, 2009 an application to be licensed as an MLO under Article 12-E and shall satisfy the pre-licensing testing and educational requirements and bonding requirements of Article 12-E by May 31, 2010; and
3. An individual authorized to act as an MLO as of July 11, 2009 shall file with the Superintendent by November 30, 2009 all such additional information as the Superintendent may reasonably require to comply with the informational requirements of Article 12-E and shall satisfy the pre-licensing testing and educational requirements and bonding requirements of Article 12-E by August 31, 2010.

Unless precluded by paragraph (a)(3) of this section, all individuals covered by this subdivision may continue to engage in the activities of an MLO until the earlier of the date he or she receives notice that his or her license application under this Part has been denied or July 31, 2010 in the case of individuals covered by paragraphs (1) and (2) of this subdivision (c) or January 1, 2011 in the case of individuals covered by paragraph (3) of subdivision (c).

- (d) **New Applications.** All individuals not covered by subdivision (c), but who are required to be licensed hereunder, shall file an application under this subdivision. Each applicant described in this subdivision shall file an application as follows:
1. Any new applicant who was engaged in the business of a mortgage loan originator as of July 11, 2009 as an employee or independent contractor of a bank, trust company, private banker, bank holding company, savings bank, savings and loan association, thrift holding company or credit union organized under the laws of this state, another state or the United States, or a subsidiary or affiliate of such a bank, trust company, private banker, bank holding company, savings bank, savings and loan association, thrift holding company or credit union and was not required to be authorized under the prior version of Article 12-E, but who must be licensed under the new Article 12-E, shall file with the Superintendent by November 30, 2009 an application to be licensed as an MLO under Article 12-E and shall satisfy the pre-licensing testing and educational requirements and bonding requirements of Article 12-E by May 31, 2010;
 2. Any new applicant not covered by the paragraph (1) of this subdivision shall file with the Superintendent an application to be licensed as an MLO under Article 12-E at least 120 days prior to the date such person expects to engage in such activities and shall, if such application is filed before January 31, 2010, satisfy the pre-licensing testing and educational requirements and bonding requirements of Article 12-E by May 31, 2010; and
 3. All other applicants not covered by the paragraph (1) of this subdivision shall file with the Superintendent an application to be licensed as an MLO under Article 12-E at least 120 days prior to the date such person expects to engage in such activities, shall satisfy the pre-licensing testing and educational requirements and bonding requirements of Article 12-E and shall be licensed hereunder prior to engaging in any MLO activities.

Any individual who applies prior to January 31, 2010, unless precluded by paragraph (3) of subdivision (a) of this section, may engage in MLO activities when notified in writing by the Superintendent that his or her application was informationally complete and had been accepted for processing. All such individuals must complete the pre-licensing testing and educational requirements and bonding requirements of Article 12-E by the earlier of May 31, 2010 and be licensed by July 31, 2010.

- (e) **The application for initial license** as an MLO under this Part shall be affirmed by the applicant and submitted electronically in such form and in such manner as may be prescribed by the Superintendent. Instructions for submission of applications shall be available on the Banking Department's website (www.banking.state.ny.us).
- (f) **Fees.** Except for individuals covered by paragraphs (1) and (3) of subdivision (c) of this section, a completed application shall be accompanied by payment of the following fees:
- (i) an investigation and initial license fee,
 - (ii) such fees as may be required for processing fingerprints, and
 - (iii) a processing fee, all as described in Section 420.17 of this Part. **No such fee will be refunded if the application is withdrawn or not approved.** The schedule of fees shall be posted on the Banking Department's website (www.banking.state.ny.us). For individuals covered by subdivision (c) of this section, if the NMLS develops the capacity to process fingerprints through the FBI, the Superintendent may require the applicant to submit a new set of fingerprints in the form required by the NMLS and to pay any processing fees required by the FBI and the NMLS.
- (g) **Fingerprints and fingerprint certification.** An applicant shall provide two sets of fingerprints in such form as shall be acceptable to the New York State Division of Criminal Justice Services, together with a fingerprint certification in the form prescribed by the Superintendent. When required by the Superintendent, an applicant also shall submit his or her fingerprints through the NMLS, in which case the applicant shall provide the Superintendent with only one set of prints.
- (h) **Information and documents required.** The application shall include the information and documents required by Supervisory Procedure MB 107 as well as such additional information and documents as the Superintendent deems necessary to determine whether the applicant satisfies the standards set forth in Section 599-e of the Banking Law. Nothing contained herein shall limit the Superintendent's authority to consider all relevant factors set forth in Article 12-E in determining whether to approve a license application under this Part.
- (i) **In-person conferences.** In the absence of a showing of undue hardship, the Superintendent may also require that the applicant and any officers, directors and/or representatives of the originating entity with which the applicant is employed or for which it is an independent contactor to appear at the Banking Department to present information about the qualifications of the applicant.

§ 420.5 Originating entities permitted to engage or contract with certain mortgage loan originators on an interim basis.

- (a) Notwithstanding Section 420.4(a) of this Part, with respect to an individual who was engaged in mortgage loan origination activities as of July 11, 2009 and whose application pursuant to the prior version of Article 12-E had not been approved, denied or withdrawn by the Superintendent prior to such date, an originating entity may permit such individual to engage in mortgage loan originating until the earlier of
- (i) July 31, 2010; or
 - (ii) the date the originating entity receives notice that the Superintendent had denied such individual's license application or the license application under this Part has been withdrawn.
- (b) Notwithstanding Section 420.4(a) of this Part, with respect to an individual who was engaged primarily in originating residential mortgage loans secured by manufactured homes as of July 11, 2009 and who has filed an application as required above, an originating entity originating residential mortgage loans secured by manufactured homes may permit such individual to engage in such mortgage loan originating activities until the earlier of (i) July 31, 2010; or (ii) the date the originating entity receives notice that the Superintendent had denied such individual's license application or the license application under this Part has been withdrawn.
- (c) Notwithstanding Section 420.4(a), with respect to an individual authorized to act as an MLO before July 11, 2009, an originating entity may permit such individual to engage in mortgage loan originating until the earlier of
- (i) January 1, 2011; or
 - (ii) the date the originating entity receives notice that the Superintendent had denied such individual's license application or the license application under this Part has been withdrawn.

§ 420.6 Notice of approval or denial of application; license; and internet listing.

- (a) Upon licensing any applicant as an MLO, the Superintendent shall:
1. Transmit notice of approval, in such form as the Superintendent deems appropriate, to the originating entity that currently employs the MLO, or for which the MLO is an independent contractor;
 2. Issue a license attesting to such approval;
 3. Transmit one copy of such license to the applicant; and
 4. File another copy of such license in his or her office.

- (b) The Superintendent shall maintain upon the Banking Department's website (www.banking.state.ny.us) a list of licensed MLOs. The list shall indicate the following:
1. Name of the MLO;
 2. License number of the MLO; and
 3. The originating entity that currently employs the MLO, or for which the MLO is an independent contractor.
- (c) A license issued pursuant to Article 12-E of the Banking Law is not transferable.
- (d) The Superintendent must deny an application unless he or she finds that the applicant possesses the general character and fitness, the education qualifications, the pre-license test results, the required bond, absence of felony convictions, and other factors set forth in Section 599-e of the Banking Law. In making such determination the Superintendent may consider all relevant factors, including but not limited to, employment history; educational background; financial responsibility; history of complaints or consumer abuse relating to real estate transactions; regulatory fines and enforcement actions; revocation, suspension or denial of licenses, certifications, authorizations or registrations in this state or any other state.
- (e) Upon denying an application for a license as an MLO, the Superintendent shall notify, in writing, the applicant and the originating entity with which the applicant is employed or affiliated that the application was denied and that the applicant may not engage in mortgage loan originating in this state.

§ 420.7 Inactive status.

The license of an MLO is not effective during any period when the MLO is not employed by or affiliated with an originating entity. When an MLO ceases to be employed by or affiliated with an originating entity, the originating entity shall promptly notify the Superintendent of the termination date of such employment or affiliation. The license of such MLO shall be placed in inactive status until the Superintendent receives confirmation from an originating entity of the MLO's new employment or affiliation. An MLO shall continue to pay the annual license fee and to take required education courses while in inactive status.

Real Life Scenario #4: Mary has a baby

Mary Walker has been originating as a licensed MLO for the previous 4 years. Mary resigned in April to be a stay-at-home mother once she had her first child.

What does Mary need to do in order to maintain her license in good standing?

§ 420.8 Suspension and termination of license.

(a) Failure to pay annual license fee.

1. All MLO licenses shall terminate on the annual expiration date unless the annual license fee is paid prior to or upon the date the payment is due.
2. In the event such fee is not paid by the due date, the Banking Department shall notify the originating entity of the termination of the license.
3. If such license expires because the annual fee has not been paid by the due date, **the license may be reinstated if such fee is paid within sixty days** after such due date.

(b) Failure to timely complete education requirements. Each licensed MLO shall complete and provide evidence to the Superintendent through the NMLS or otherwise as directed by the Superintendent of the completion of his or her annual education requirements by the annual expiration date of such MLO's license. Failure to timely complete and demonstrate such completion shall cause the MLO's license to be terminated on such annual expiration date, irrespective of whether the MLO has made satisfactory payment of the annual license fee. The license may be reinstated if the MLO:

- (i) demonstrates to the Superintendent's satisfaction that the applicable **education requirements were completed within sixty days** of the annual expiration date; or
- (ii) satisfies any conditions provided by the Superintendent pursuant to Section 420.12(b) of this Part.

(c) Failure to file reports or maintain bond. The Superintendent may, without notice or a hearing, issue an order suspending any license:

- (i) thirty days after the date the mortgage loan originator fails to file any report required to be filed with the Superintendent pursuant to the authority provided in Article 12-E; or
- (ii) immediately upon termination of any required surety bond with respect to the licensee if the Superintendent has not received evidence of a satisfactory replacement bond. If the Superintendent has issued an order suspending a license pursuant to this authority, such license may be reinstated, if the Superintendent determines, in his or her sole discretion, that the licensee has cured all deficiencies set forth in such order by the close of business ninety days after the date of such suspension order. Otherwise, unless the Superintendent has, in his or her sole discretion, extended such suspension, the license of such mortgage loan originator shall be deemed to be automatically terminated by operation of law at the close of business on such ninetieth day.

- (d) **Notification of suspension or termination.** Whenever a license shall have been suspended or terminated in accordance with this section, the Superintendent shall notify the MLO and the affected originating entity that the license has been suspended or terminated and that the MLO may not engage in mortgage loan originating in this state.
- (e) **Civil and criminal liability.** A suspension or termination of a license in accordance with this section shall not affect such MLO's civil or criminal liability for acts committed prior to such suspension or termination or its obligations to the Superintendent for assessments, fees or administrative actions with respect to the periods before such suspension or termination.
- (f) **Effect of suspension or termination.** No suspension or termination of an MLO license shall impair or affect the obligations under any preexisting lawful contract between any originating entity of such MLO and any person.

§ 420.9 Renewal of License.

- (a) **Annual Expiration of license.** Each MLO license issued by the Superintendent under the provisions of Article 12-E of the Banking Law shall terminate annually on the annual expiration date, unless renewed.
- (b) **Submission of annual request for renewal.** An annual request for renewal of a license as an MLO shall be affirmed by the MLO and submitted electronically in such form and in such manner as may be prescribed by the Superintendent. Instructions for annual renewal of a license shall be available on the Banking Department's website (www.banking.state.ny.us).
- (c) **Annual license fee.** A completed annual request for renewal shall be accompanied by an annual license fee, established by the Superintendent, pursuant to Article 12-E.
- (d) **Information and documents required.** The annual request for renewal shall include the information and documents referred to in Supervisory Procedure MB 107 as well as such additional information and documents as the Superintendent deems necessary to determine whether the MLO continues to satisfy the standards set forth in Section 599-e of the Banking Law.

§ 420.10 Surrender of license.

- (a) **Who may surrender.** With the prior approval of the Superintendent, an MLO may surrender a MLO license by delivering to the Superintendent written notice that he or she intends to surrender such license. A MLO license may be surrendered only by the licensed individual named on the license. An originating entity that employs an MLO or with which an MLO is affiliated may not surrender the license of such MLO.
- (b) **Form of surrender.** The instructions for surrender shall be posted on the Banking Department's website (www.banking.state.ny.us).

- (c) **Civil and criminal liability.** Surrender of an MLO license shall not affect the civil or criminal liability of the MLO or the MLO's originating entity for acts committed prior to such surrender or the obligations to the Superintendent of the MLO or the MLO's originating entity for assessments, fees or administrative actions with respect to the periods before such surrender.
- (d) **Effect of Surrender.** No surrender of an MLO's license shall impair or affect the obligation of any preexisting lawful contract between any originating entity of such MLO and any person.

§ 420.11 Pre-licensing education requirement.

- (a) **Condition to Licenses.** Each MLO shall, as a condition of initial licensing under Article 12-E:
 - 1. Satisfactorily complete requirements as prescribed pursuant to Section 599-f of Article 12-E; and
 - 2. Submit to the originating entity and the NMLS when directed by the Superintendent proof of completion of the required number of hours of education courses.
- (b) **Required courses.** A person seeking a license under Article 12-E shall complete at least twenty hours of pre-license education courses, including courses satisfying the following minimum requirements:
 - 1. Three hours of federal law and regulations;
 - 2. Three hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues;
 - 3. Two hours of training related to lending standards for the nontraditional mortgage product marketplace; and
 - 4. Three hours of training on applicable New York State law and regulations as may have been approved by the Superintendent as pre-education courses.
- (c) **Format of courses.**
 - 1. **Inexperienced MLOs.** An MLO with less than four years of experience as an MLO must take **only** pre-licensing education courses given in the following formats: (i) a traditional live classroom setting; (ii) fully interactive video or audio conferences, where there is an opportunity for students to ask questions; or (iii) a format where the student cannot advance to the next course without demonstrating his or her comprehension of previous subjects.
 - 2. **Experienced MLOs.** In the case of an MLO with four or more years of experience as an MLO half of the required credit hours shall be in given in the following formats:
 - (i) a traditional live classroom setting;
 - (ii) fully interactive video or audio conferences, where there is an opportunity for students to ask questions; or

- (iii) a format where the student cannot advance to the next course without demonstrating his or her comprehension of previous subjects. The remaining credit hours may be satisfied in any of the preceding formats or any of the following formats:
 - (i) online programs;
 - (ii) webcasts;
 - (iii) audio and video recordings;
 - (iv) video conferencing;
 - (v) teleconferencing;
 - (vi) computer based learning software; and
 - (vii) live satellite broadcasts.
- (d) **Proof that MLO has completed pre-licensing education requirements.** No originating entity shall permit any MLO who is required to have completed pre-licensing education requirements pursuant to Article 12-E of the Banking Law to engage in mortgage loan originating until it has received proof of completion of such requirements.

§ 420.12 Approved education providers and courses.

- (a) **Approved education courses.** For purposes of Sections 420.11 and 420.14 of this Part and Banking Law Sections 500-f and 599-j, pre-licensing education courses and continuing educational courses and the course provider thereof shall have been approved by the NMLS. Pre-licensing and annual educational courses approved by the NMLS for any state shall be accepted towards completion of the educational requirements of New York State, provided that such course, at a minimum, satisfies the requirements of Section 420.11(b) (1), (2) and (3) for pre-licensing education courses, or Section 420.14(b)(1), (2) and (3) for continuing educational courses.
- (b) **Variances and extensions.** Variances to, or extensions of, the pre-license or continuing education requirements prescribed pursuant to Article 12-E of the Banking Law may be granted by the Superintendent:
 1. For reasons of health certified by an appropriate health care professional;
 2. For extended active duty with the armed forces of the United States; or
 3. For other good cause deemed acceptable by the Superintendent, in his or her sole discretion, which may prevent satisfactory or timely completion of such requirements.

- (c) **Audit by Superintendent.** The Superintendent or his or her representative may audit at no cost each approved pre-license or continuing education course at any time. If the Superintendent finds that the course does not conform to the requirements of Article 12-E and Part 420.11 or Part 420.14 of this Part, the Superintendent shall notify the NMLS of the deficiencies. If the course provider does not rectify such deficiencies in a timely fashion, the Superintendent shall notify mortgage loan originators, via the Department's website, of the unacceptability of the particular course or courses for compliance with continuing education.

§ 420.13 Pre-license testing requirements.

- (a) **General requirements.** In order to meet the written test requirement referred to in Article 12-E, an individual shall pass, in accordance with the standards established under Section 599-g of the Banking Law, a qualified written test developed by the NMLS and administered by a test provider approved by the NMLS.
- (b) **Qualified test.** A written test shall not be treated as a qualified written test for purposes of subdivision one of this section unless the test adequately measures the applicant's knowledge and comprehension in appropriate subject areas, including the following:
1. Ethics;
 2. Federal law and regulation pertaining to mortgage origination;
 3. New York State law and regulation pertaining to mortgage origination; and
 4. Federal and New York law and regulation, including instruction on fraud, consumer protection, the nontraditional mortgage marketplace, and fair lending issues.
- (c) **Testing location.** Nothing in this section shall prohibit a test provider approved by the NMLS from providing a test at the location of the originating entity of the MLO or the location of any subsidiary or affiliate of such entity, or the location of any entity with which the applicant holds an exclusive arrangement to conduct the business of a mortgage loan originator.
- (d) **Minimum competency.** The following conditions apply to individuals taking such competency tests:
1. An individual shall not be considered to have passed a qualified written test unless the individual shall have achieved a test score of not less than seventy-five percent correct answers to questions;
 2. An individual may retake a test three consecutive times, with each consecutive taking occurring at least thirty days after the preceding test;
 3. After failing three consecutive tests, an individual shall wait at least six months before taking the test again; and

4. A licensed mortgage loan originator who fails to maintain a valid license for a period of five years or longer, not taking into account any time during which such individual is a registered mortgage loan originator, shall retake the test.

§ 420.14 Continuing educational requirements

- (a) **Required courses.** In order to meet the annual continuing education requirements referred to in Article 12-E, a licensed mortgage loan originator shall:
 1. Satisfactorily complete, beginning in the year after such individual is licensed, the educational requirements as prescribed pursuant to Section 599-j of the Banking Law; and
 2. Submit to the originating entity and the NMLS when directed by the Superintendent proof of completion of the required number of hours of education courses by providing certificates of course completion in the form required by the Superintendent.
- (b) As a condition to renewing his or her license, an MLO shall on an annual basis complete at least **11 hours of continuing education courses**, including courses satisfying the following minimum requirements:
 1. Three hours of Federal law and regulations;
 2. Two hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues;
 3. Two hours of training related to lending standards for the nontraditional mortgage product marketplace; and
 4. Three hours of training on applicable New York State law and regulations as may have been approved by the Superintendent as pre-education courses.
- (c) **Format of courses:**
 1. **Inexperienced MLOs.** An MLO with less than four years of experience as an MLO must take all continuing education courses given in the following formats: (i) a traditional live classroom setting; (ii) fully interactive video or audio conferences, where there is an opportunity for students to ask questions; or (iii) a format where the student cannot advance to the next course without demonstrating his or her comprehension of previous subjects.
 2. **Experienced MLOs.** In the case of an MLO with four or more years of experience as an MLO half of the required credit hours in continuing education courses shall be in given in the following formats:
 - (i) a traditional live classroom setting;
 - (ii) fully interactive video or audio conferences, where there is an opportunity for students to ask questions; or

- (iii) a format where the student cannot advance to the next course without demonstrating his or her comprehension of previous subjects. The remaining credit Hours may be satisfied in any of the preceding formats or any of the following formats:
 - (i) online programs;
 - (ii) webcasts;
 - (iii) audio and video recordings;
 - (iv) video conferencing;
 - (v) teleconferencing;
 - (vi) computer based learning software; and (vii) live satellite broadcasts.
- (d) **No repeat attendance.** No credit shall be earned for repeating any education course for which a student has already earned credit, even if the education course is in a different format or a subsequent time period. This restriction shall not apply to a course that has new content, such as updates to reflect changes in the law or regulations or new court interpretations, or where a course is geared to a more in-depth or advanced treatment of a subject.
- (e) **No course carryover.** Continuing education credit may only be earned in the year in which the course is taken. Pre-licensing education credit will not be counted towards continuing education credit.
- (f) **Instructor credits.** An MLO who is also approved as an instructor of an approved continuing education course may receive credit toward the continuing education requirement at the rate of two hours of credit for every one hour taught.
- (g) **Proof that MLO has Completed Continuing Education Requirements.** No originating entity shall permit any MLO who is required to have completed a continuing education requirement pursuant to Section 599-j of the Banking Law to engage in mortgage loan originating after his or her annual expiration date unless it has received acceptable proof of completion of such requirements.

§ 420.15 Surety bonds

- (a) Each mortgage loan originator shall be covered by a surety bond in accordance with Section 599-k of the Banking Law. The surety bond of an originating entity may be used to satisfy the mortgage loan originator's surety bond requirement; provided that such surety bond contains coverage for each mortgage loan originator not otherwise covered by a qualifying surety bond in an amount prescribed in subdivision (b) of this section. The surety bond shall be in a form prescribed by the Superintendent.

- (b) The penal amount of the required surety bond shall be maintained in an amount that reflects the dollar amount of loans originated by the mortgage loan originator as determined by the following requirements:

Required bond amount	Aggregate \$ amount of NY loans originated
\$10,000	Less than \$1,000,000
\$25,000	\$1,000,000 to \$7,499,999
\$50,000	\$7,500,000 to \$14,999,999
\$75,000	\$15,000,000 to \$2,999,999
\$100,000	\$30,000,000 to \$49,999,999
\$150,000	\$50,000,000+

The amount of loans originated for this purpose shall be the volume of loans originated in the prior calendar year by the MLO. The MLO or originating entity shall provide proof of the existence of a bond in the requisite amount at the time of each annual renewal of an MLO's license and such other times as requested by the Superintendent.

- (c) The Superintendent reserves the right to require the filing of a bond in a penal amount greater than set forth in Subdivision (b) above if the nature or business of an MLO or originating entity requires in the reasonable judgment of the Superintendent such additional protection for consumers.
- (d) Immediately upon recovery on any claim or action on or under the bond, the mortgage loan originator or the originating entity as the case may be, shall file a new or supplemental bond restoring the face amount of the bond to the amount required by the Superintendent.

§ 420.16 Reports; permissive challenges by licensees.

- (a) Superintendent's reports. As provided for in Section 599-l of the Banking Law, the Superintendent is required to report to the NMLS at least annually all violations of Article 12-E, as well as enforcement actions and other relevant information requested by the NMLS, subject to the provisions contained in the confidentiality provisions of Section 599-q of the Banking Law.
- (b) Permissible challenges. MLOs may challenge in writing all information entered into the NMLS by the Superintendent. The Superintendent shall modify any such information if he or she in his or her sole discretion shall determine such information is incorrect.
- (c) Originating entity reports. Originating entities employing or having as independent contractors one or more MLOs shall, when required by the NMLS, submit such reports of condition as may be required by the NMLS.

- (d) MLO reports. Each MLO shall submit to the NMLS a report of condition in the format and within the time frame prescribed by the NMLS. An originating entity may file such report in aggregate form, if permitted by the NMLS, provided that such report contains information for all MLOs who originated loans for such entity during the reporting period.

§ 420.17 Calculation and collection of fees.

- (a) Under Section 599-d of the Banking Law, each applicant for an initial license as an MLO shall pay the fees set forth in paragraphs 1-4 below and an applicant for a license renewal shall pay the fees set forth in paragraphs 4 and 5, all as determined by the Superintendent:
1. An investigation fee determined in the reasonable estimate of the Superintendent to be the actual cost to the Banking Department to investigate the applicant;
 2. An initial license fee as determined by the Superintendent;
 3. The fingerprint processing fee charged by the State Division of Criminal Justice Services and established pursuant to Article 35 of the Executive Law or such other fee or fees that may be imposed by any entity reviewing the fingerprint cards;
 4. A processing fee that may be charged and collected by the NMLS; and
 5. An annual licensing fee.
- All fees may be collected by the NMLS. With respect to initial applications, the fees in paragraphs (1), (2), (3) and (4) of this subsection must be filed with the application.
- (b) The Superintendent has established the following fees as of the effective date of this Part:
1. An investigation fee of \$125;
 2. An initial license fee of \$50;
 3. The fingerprint processing fee charged by the State Division of Criminal Justice Services and established pursuant to Article 35 of the Executive Law;
 4. Any processing fee that may be charged and collected by the NMLS; and
 5. An annual license fee of \$50.
- (c) The schedule of fees in effect from time to time in accordance with Article 12-E shall be posted on the Banking Department's website (www.banking.state.ny.us).

§ 420.18 Duties of originating entity.

(a) Each originating entity shall:

1. By the end of each calendar quarter submit to the Superintendent in written or electronic form a report containing the following:
 - i. the **names and addresses of each MLO newly employed** by, or affiliated as an independent contractor with, such originating entity during such quarter and the effective date of such employment or affiliation; and
 - ii. each **dismissal for cause of an MLO employed** by, or affiliated as an independent contractor of, such originating entity during such quarter, which is due to or based upon an alleged violation of the Banking Law, this Part or any other violation of any applicable federal or state law, rule or regulation and the effective date of such dismissal;
2. Determine that each individual who becomes employed by, or affiliated as an independent contractor of, such originating entity as an MLO has the character, fitness and education qualifications to warrant the belief that he or she will engage in mortgage loan originating honestly, fairly and efficiently. Each originating entity shall also obtain and maintain in its files such information about each such employee or affiliate upon which such determination was based;
3. Obtain documentation of the satisfactory completion of education courses, pursuant to Sections 599-f and 599-j of the Banking Law, for each MLO employed by or affiliated as an independent contractor with such originating entity, which documentation shall be:
 - i. in a form acceptable to the Superintendent;
 - ii. retained by the originating entity for six years from the date of receipt of such documentation; and
 - iii. provided to the Banking Department or the NMLS when directed by the Superintendent;
4. Ensure that any MLO employed by, or who is an independent contractor of, the originating entity has been duly licensed by the Superintendent to engage in mortgage loan originating activities and that such license has not been terminated or suspended or revoked; and
5. Assign MLOs to locations licensed or registered by the Superintendent, display the license for each MLO working at such location, and ensure that the unique identifier of each MLO performing mortgage loan origination services with respect to a mortgage application is recorded on such application.

- (b) If an originating entity retains the original proof or record of completion of education courses by an MLO, the originating entity shall provide the original to the MLO, upon request, when the MLO terminates or has terminated his or her employment or affiliation with the originating entity.

§ 420.19 Duties of MLO

- (a) Except as may be permitted by the Superintendent in writing, **a MLO shall not be simultaneously employed** or affiliated with more than one originating entity licensed, registered or exempt from licensing pursuant to the provisions of Article 12-D of the Banking Law.
- (b) Each MLO shall engage in mortgage loan originating activities in a manner such as to **command the confidence of the community** and to warrant belief that his or her activities are conducted honestly, fairly and free from deceptive practices.
- (c) Each MLO shall promptly **notify the Banking Department** of the following:
1. **Change of primary residence address;**
 2. **Any felony conviction** or pending felony charges; any charge of or conviction with respect to a misdemeanor involving financial services or a financial services related business; or any charge or conviction involving fraud, false statements or omissions, theft or wrongful taking of property, bribery, perjury; forgery; money laundering or extortion subsequent to initial licensure;
 3. **Termination of and/or resignation** from employment with an originating entity;
 4. The initiation, settlement or **resolution of any complaint**, action or proceeding brought against him or her by a state or federal governmental unit or self-regulatory organization in connection with a financial services-related activity or business or involving fraud, misrepresentation, consumer deception, larceny, money laundering or perjury; and
 5. The initiation, settlement or **resolution of any other civil action** or proceeding against him or her involving fraud, misrepresentation, larceny or perjury.
- (d) Each MLO shall **obtain course completion certificates** evidencing satisfactory completion of the credit hour requirements for each annual renewal period and provide a copy thereof to his or her originating entity, or the NMLS when directed by the Superintendent.

§ 420.20 Prohibited conduct.

(a) No MLO shall:

1. **Engage in conduct prohibited under Part 38.7** of the General Regulations of the Banking Board, as applicable;
2. **Continue to engage in Mortgage Loan Originating after receiving notice of the denial of his or her application** for a license or notice of the revocation, suspension or termination of his or her license;
3. **Misrepresent his or her license status**, or persuade or induce a borrower to apply for a mortgage loan under the belief that such MLO is duly licensed as a mortgage banker or registered as a mortgage broker pursuant to Article 12-D of the Banking Law or an entity exempt from the licensing provisions of Article 12-D;
4. Publish, advertise or display his or her MLO license in any manner which implies that the MLO is licensed or registered with the State of New York Banking Department to engage in mortgage loan originating activities as a mortgage banker or mortgage broker pursuant to Article 12-D of the Banking Law;
5. **Conduct business with any entity or individual which he or she knows or should know is an unlicensed** mortgage banker or unregistered mortgage broker not otherwise exempt from the licensing, registration and license requirements of Articles 12-D and 12-E of the Banking Law;
6. **Engage in any transaction, practice, or course of business that is not in good faith** or does not constitute fair dealing as required by the character and fitness requirements of Section 599-d of the Banking Law and Sections 592 and 592-a of the Banking Law;
7. **Download or remove borrowers' or mortgage loan applicants' loan files or other information from the premises or automated systems of an originating entity without permission of the originating entity;**
8. **Publish or advertise its MLO license or unique identifier in any manner which implies that such license or unique identifier can be shared or used by multiple individuals** to engage in mortgage loan originating activities in this State;
9. Allow any individual or entity, regardless of whether such individual or entity is registered, or licensed pursuant to Article 12-D or 12-E of the Banking Law, to utilize the MLO's license or unique identifier to engage in mortgage loan originating activities; or
10. Except as may be approved in writing by the Superintendent, **simultaneously work for or be affiliated with more than one originating entity.**

Real Life Scenario #5: Peter is in a pickle

Peter has a packed pipeline of borrowers, which include two loans in the rescission period and three loans he just submitted to processing. Last evening he found out his mortgage broker just had their registration revoked by the Superintendent.

What should Peter do with his loans in process?

(b) No originating entity or exempt organization shall:

1. Permit any MLO who is subject to any education requirement pursuant to Article 12-E of the Banking Law that is then required to have been completed to engage in mortgage loan originating until acceptable proof or record of completion has been obtained by such originating entity;
2. Permit any MLO subject to the provisions of this Part and Article 12-E of the Banking Law to engage in mortgage loan originating activities when it knows or has reason to know that the MLO's license has been terminated or has been suspended or revoked;
3. Pay compensation for mortgage loan originating activities to an individual who is then required to be licensed as an MLO but has not received such license, or, except as required by law or court order, pay the compensation of a MLO to a individual; other than the individual on the MLO license; or
4. Use the unique identifier of a licensed MLO to process or submit an application taken by any unlicensed individual.

§ 420.21 Administrative action and penalties

(a) **Revocation of License.** Pursuant to Section 599-n of the Banking Law, the Superintendent, in addition to the authority provided by subdivision (b) of this section, may revoke any license as a mortgage loan originator if they find that:

1. The licensee has violated any provisions of Article 12-E, or any rule or regulation promulgated by the Banking Board, or any rule or regulation prescribed by the Superintendent under and within the authority of Articles 12-D or 12-E or of any other applicable law, rule or regulation of this state or the federal government pertaining to mortgage banking, brokering or loan originating; or
2. Any fact or condition which exists, if it had existed at the time of the original application for such license, would have warranted the Superintendent to refuse to issue such initial license.

(b) **Good Cause Suspension**

1. The Superintendent may, for good cause, or where there is a substantial risk of public harm, without notice or a hearing, issue an order suspending the license of any mortgage loan originator for a period not to exceed ninety days for investigation. "Good cause", as used in this subdivision, shall exist only when the mortgage loan originator has engaged or engages in dishonest or inequitable practices or practices which demonstrate incompetent mortgage loan originating, which practices may cause substantial harm to the persons afforded the protection of Article 12-D or 12-E of the Banking Law, or the license of the mortgage loan originator was revoked in another state or jurisdiction participating in the NMLS.
 2. If the Superintendent has issued an order suspending a license pursuant to this subdivision, such license may be reinstated if the Superintendent determines, in his or her sole discretion after investigation, that good cause therefore did not exist or no longer exists.
- (c) **Disciplinary action requiring a hearing.** Except as provided in subdivision (b) of this Section or Section 420.8, a license may be revoked or suspended only after notice and a hearing as provided in Supervisory Procedure G111.
- (d) **Notification of suspension or revocation.** Whenever a license shall have been revoked or suspended in accordance with this section, the Superintendent shall notify the MLO and the affected originating entity that the license has been revoked and that the MLO may not engage in the business of mortgage loan originating in this state.
- (e) **Restitution.** The Superintendent may order a mortgage loan originator or any other person to pay restitution for violations of Article 12-E or any rules of the Banking Board or the Superintendent promulgated hereunder.
- (f) **Civil and criminal liability.** A revocation of a license in accordance with this Part shall not affect the civil or criminal liability of an MLO or his or her originating entity for acts committed prior to such suspension or termination or its obligations to the Superintendent for assessments, fees or administrative actions with respect to the periods before such suspension, revocation or termination.
- (g) **Fines.** Pursuant to Section 44 of the Banking Law, the Superintendent may impose a fine against an MLO for any violation of the Banking Law, any regulation promulgated thereunder, any final or temporary order issued pursuant to Section 39 of the Banking Law, any condition imposed by the Superintendent or Banking Board in connection with the grant of any application or request or any written agreement entered into with the Superintendent.

- (h) **Grounds for disciplinary action.** An MLO may be subject to such disciplinary action as may be determined appropriate by the Superintendent after notice and hearing, except as otherwise provided for in Article 12-E, subject but not limited to the following grounds:
1. Fraud or bribery in securing a license;
 2. Making false statements in an application for license, which false statements would have been grounds for rejection of the application;
 3. Making of false statement on any form or document requested by the Superintendent for examination or review pursuant to Banking Law and regulations promulgated thereunder;
 4. A pattern of conduct indicating incompetence or untrustworthiness;
 5. Conviction of any crime which would have a bearing on the fitness or ability of an MLO to engage in mortgage loan originating activities; or
 6. Failure to perform his or her duties and responsibilities in an honest, fair and reasonable manner.
- (i) **Administrative hearings.** Administrative hearings shall be conducted in accordance with Supervisory Procedure G111.
- (j) **Examinations and Investigations.** For the purpose of discovering violations of Article 12-E or securing information lawfully required by him or her hereunder, the Superintendent may at any time, and as often as he or she may determine, investigate the business and examine the books, accounts, records, and files of every licensee under Article 12-E and any originating entity with which such individual is associated as an employee or independent contractor. For that purpose the Superintendent shall have free access to the offices and places of business, books, accounts, papers, records, files, safes and vaults of all such entities. The Superintendent shall have authority to require the attendance of and to examine under oath all persons whose testimony he or she may deem necessary or desirable relative to such business. The expenses incurred in making any examination pursuant to this section shall be assessed against and paid by the licensee so examined or his or her originating entity. Upon written notice by the Superintendent of the total amount of such assessment, the licensee shall become liable for and shall pay such assessment to the Superintendent.

420.22 Effective date.

This Part will be effective immediately upon adoption.

SAFE Mortgage Loan Originator Test – State Component
New York Content Outline

(55 scored test questions; 5-10 unscored test questions)

I. New York State Banking Department (5% = 2-3 scored questions)

- A. Regulatory authority
- B. Department/agency structure
- C. Responsibilities and limitations

II. New York State Law and Regulation Definitions (15% = 8-9 scored questions)

- A. Articles 12-D and 12-E of the New York Banking Law
- B. Part 420 of the Superintendent's Regulations
- C. Part 38 and 41 of the Banking Board
- D. Other State Law and Regulation Definitions

III. New York License Law and Regulation (20% = 11 scored questions)

- A. Persons required to be licensed
 - 1. Persons required to be licensed
 - 2. Exemptions
- B. Licensee qualifications and application process
 - 1. Financial responsibility (surety bond)
 - 2. Background check and fingerprints (criminal check; credit report)
 - 3. Pre-licensing education and experience
 - 4. Testing and retesting
- C. Grounds for denying a license
 - 1. Criminal convictions
 - 2. Previous revocation
 - 3. Prohibition
 - 4. Character and fitness
- D. License maintenance
 - 1. Continuing education
 - 2. Personal information updates and required notifications
 - 3. Renewal
 - 4. Record keeping and reporting
 - 5. Suspension and reinstatement

IV. Compliance (45% = 24-25 scored questions)

- A. Prohibited conduct and practices
- B. Required conduct
- C. Fees and charges
 - 1. General fees and charges
 - 2. NY mortgage recording tax
- D. Disclosures and agreements
- E. Advertising

V. Disciplinary Action (10% = 5-6 scored questions)

- A. Notifications, hearings, and appeals
- B. Suspension, revocation, and rescission of licenses
- C. Penalties/fines
- D. Civil and criminal liability

VI. Unique New York State Test Areas (5% = 2-3 scored questions)

- A. New York Real Property Law, Sections 265 and 265-b

The American Dream

“People who love the American idea of freedom and personal responsibility want more than anything else to simply have an equal opportunity to achieve their hopes and dreams. For many this dream is to buy and own a home and to raise a family. Homeownership is the material fabric of our communities and the foundation of our economy. As a loan originator you have the honor and the privilege to play a vital role in the fulfillment of this dream.”

—Paul Donohue

The Immortal Requirement

“One of the strongest and most compelling instincts we have as human beings is the immortal requirement to make a difference. We are driven by positive forces in our nature to want to leave the world a better place. You are beginning a professional career that will allow you to do just that for your loved ones and for those customers you serve. Remember, in all your dealings, to always take the long view and the high road.”

—Paul Donohue

Thank You

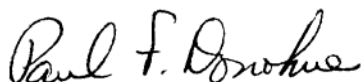
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You have my very best wishes for a long and prosperous career and I will see you on the high road of this business we love so much.

Truly yours,



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