

## HOUSE BILL NO. HB0169

Mortgage loan originators.

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

A BILL

for

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

15

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

1

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

4

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

6

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

16

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

1 executed subsequent to the effective date of the bond,  
2 shall be placed on file with the administrator.

3

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

16

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

22

23 **40-14-638. Mortgage call reports.**

24

1 Each organization employing or contracting with a mortgage  
2 loan originator shall submit to the registry reports of  
3 condition, which shall be in such form and shall contain  
4 such information as required by the registry.

5

6 **40-14-639. Report to the registry.**

7

8 The administrator shall regularly report violations of this  
9 act relating to transactions conducted by mortgage loan  
10 originators, as well as enforcement actions and other  
11 relevant information, to the registry subject to the  
12 provisions contained in W.S. 40-14-636. The administrator  
13 shall establish by rule a process where a mortgage loan  
14 originator may challenge information entered into the  
15 registry by the administrator.

16

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

18

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

20

21 (a) As used in this part:

22

23 (i) "Channeling agent" means the third party  
24 licensing system that gathers the application information

1 and distributes it to Wyoming for review for the approval  
2 or denial decision;

3

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

5

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

9

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

16

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

20

21 (iv) "Dwelling" means a residential structure  
22 that contains one (1) to four (4) units, whether or not  
23 that structure is attached to real property. "Dwelling",  
24 if it is used as a residence, includes an individual

1 condominium unit, cooperative unit, mobile home and  
2 trailer;

3

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

9

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

14

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

16

17 (viii) "Loan processor or underwriter" means an  
18 individual who performs clerical or support duties as an  
19 employee at the direction of and subject to the supervision  
20 and instruction of an organization employing or contracting  
21 with a mortgage loan originator, or an exempt person under  
22 W.S. 40-14-121;

23

24 (ix) "Mortgage loan originator":

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(A) 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 the terms of a residential mortgage loan.

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

(C) Shall not include a person who only performs real estate brokerage activities and is licensed or registered in accordance with Wyoming law, unless the person 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

1                   (D) Shall not include a person solely  
2 involved in extensions of credit relating to timeshare  
3 plans.

4  
5                   (x) "Nontraditional mortgage product" means any  
6 mortgage product other than a thirty (30) year fixed rate  
7 mortgage;

8  
9                   (xi) "Real estate brokerage activity" means any  
10 activity that involves offering or providing real estate  
11 brokerage services to the public, including:

12  
13                   (A) Acting as a real estate agent or real  
14 estate broker for a buyer, seller, lessor or lessee of real  
15 property;

16  
17                   (B) Arranging meetings or communicating  
18 with any party interested in the sale, purchase, lease,  
19 rental or exchange of real property;

20  
21                   (C) Negotiating, on behalf of any party,  
22 any portion of a contract relating to the sale, purchase,  
23 lease, rental or exchange of real property, unless the  
24 negotiating relates to the financing of these transactions,

1 which shall then constitute engaging in the business as a  
2 mortgage loan originator;

3

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

8

9 (E) Offering to engage in any activity, or  
10 act in any capacity, described in subparagraph (A), (B),  
11 (C) or (D) of this paragraph.

12

13 (xii) "Registered mortgage loan originator"  
14 means any individual who:

15

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

18

19 (B) Meets the definition of mortgage loan  
20 originator and is an employee of:

21

22 (I) An institution regulated by the  
23 farm credit administration;

24

1 (II) A depository institution; or

2

3 (III) A subsidiary that is:

4

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

7

8 (2) Regulated by a federal  
9 banking agency.

10

11 (xiii) "Registry" means the nationwide mortgage  
12 licensing system and registry which is a mortgage licensing  
13 system developed and maintained by the conference of state  
14 bank supervisors and the American association of  
15 residential mortgage regulators for the licensing and  
16 registration of mortgage lenders, mortgage brokers and  
17 mortgage loan originators;

18

19 (xiv) "Residential mortgage loan" means a  
20 consumer loan as defined in W.S. 40-14-304 or a consumer  
21 credit sale as defined in W.S. 40-14-204, made primarily  
22 for personal, family or household use that is secured by a  
23 mortgage, deed of trust or other equivalent consensual  
24 security interest on a dwelling or residential real estate

1 upon which is constructed or intended to be constructed a  
2 dwelling;

3

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

6

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

10

11 **40-14-641. Loan originator licensing; registration;**  
12 **rulemaking.**

13

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

22

23 (b) In order to facilitate an orderly transition to  
24 licensing and minimize disruption in the marketplace, the

1 effective date for subsection (a) of this section shall be  
2 July 1, 2010.

3

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

6

7 (i) A registered mortgage loan originator, when  
8 acting for an entity described in W.S.  
9 40-14-640(a)(xii)(B)(I), (II) or (III);

10

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

14

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

18

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

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

3

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

12

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

22

23 (e) For the purpose of implementing an orderly and  
24 efficient licensing process the administrator may establish

1 licensing rules or regulations and interim procedures for  
2 licensing and acceptance of applications.

3

4 **40-14-642. Loan originator application; processing.**

5

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

12

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

19

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

24

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

6

7           (ii) Personal history and experience, including  
8 the submission of authorization for the registry and the  
9 administrator to obtain:

10

11           (A) An independent credit report obtained  
12 from a consumer reporting agency described in section  
13 603(p) of the Fair Credit Reporting Act; and

14

15           (B) Information related to any  
16 administrative, civil or criminal findings by any  
17 governmental jurisdiction.

18

19           (d) For the purposes of this section and in order to  
20 reduce the points of contact which the federal bureau of  
21 investigation may have to maintain for purposes of  
22 paragraph (c)(i) of this section and subparagraph  
23 (c)(ii)(B) of this section, the administrator may use the  
24 registry as a channeling agent for requesting information

1 from and distributing information to the department of  
2 justice or any governmental agency.

3

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

11

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

18

19 **40-14-643. Issuance of loan originator licenses.**

20

21 (a) The administrator shall not issue a mortgage loan  
22 originator license unless the administrator makes at a  
23 minimum the following findings:

24

1           (i) The applicant has not had a mortgage loan  
2 originator license revoked in any governmental  
3 jurisdiction, except that a subsequent formal vacation of  
4 such revocation shall not be deemed a revocation;

5

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

9

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

13

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

19

20           (iii) The applicant has demonstrated financial  
21 responsibility, character and general fitness such as to  
22 command the confidence of the community and to warrant a  
23 determination that the mortgage loan originator will

1 operate honestly, fairly and efficiently within the  
2 purposes of this act;

3

4 (iv) The applicant has completed the  
5 prelicensing education requirement pursuant to W.S.  
6 40-14-644;

7

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

10

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

17

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

20

21 (ii) Having any outstanding tax lien or other  
22 government lien;

23

1           (iii) Having any foreclosure within the past  
2 three (3) years;

3

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

6

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

10

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

15

16           (ii) The administrator has not issued a license  
17 within sixty (60) days after a complete application for the  
18 license was filed.

19

20           (d) If a hearing is held, the applicant and those  
21 filing objections shall reimburse, pro rata, the  
22 administrator for his reasonable and necessary expenses  
23 incurred as a result of the hearing. Notwithstanding any  
24 provision under the Wyoming Administrative Procedure Act, a

1 request for hearing shall not be made more than fifteen  
2 (15) days after the applicant has received notification by  
3 certified mail that the application has been denied and  
4 stating in substance the administrator's finding supporting  
5 denial of the application or that objections have been  
6 filed and the substance thereof.

7

8 **40-14-644. Prelicensing and relicensing education of**  
9 **loan originators.**

10

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

16

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

19

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

23

1           (iii) Two (2) hours of training related to  
2 lending standards for the nontraditional mortgage product  
3 marketplace.

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

10

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

17

18           (d) Prelicensing education may be offered either in a  
19 classroom, online or by any other means approved by the  
20 registry.

21

22           (e) The prelicensing education requirements approved  
23 by the registry in paragraphs (a)(i), (ii) and (iii) of  
24 this section for any state shall be accepted as credit

1 towards completion of prelicensing education requirements  
2 in Wyoming.

3

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

7

8 (i) Shall not have to complete prelicensing  
9 education requirements;

10

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

13

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

15

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

22

23 (b) A written test shall not be treated as a  
24 qualified written test for purposes of subsection (a) of

1 this section unless the test adequately measures the  
2 applicant's knowledge and comprehension in appropriate  
3 subject areas, including:

4

5 (i) Ethics;

6

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

9

10 (iii) Wyoming law and regulation pertaining to  
11 mortgage origination; and

12

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

17

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

1

2 (d) An individual shall not be considered to have  
3 passed a qualified written test unless the individual  
4 achieves a test score of not less than seventy-five percent  
5 (75%) correct answers to test questions.

6

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

10

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

14

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

20

21 **40-14-646. Standards for loan originator license**  
22 **renewal; rulemaking.**

23

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

3

4           (i) The mortgage loan originator continues to  
5 meet the minimum standards for license issuance under W.S.  
6 40-14-643(a)(i) through (v);

7

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

11

12           (iii) The mortgage loan originator has paid the  
13 license renewal fee not to exceed three hundred dollars  
14 (\$300.00), as established by rule of the administrator.

15

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

23

1           **40-14-647. Continuing education for mortgage loan**  
2 **originators; rulemaking.**

3

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

9

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

12

13                   (ii) Two (2) hours of ethics, which shall  
14 include instruction on fraud, consumer protection and fair  
15 lending issues; and

16

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

20

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

1 education course shall include review and approval of the  
2 course provider.

3

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

10

11 (d) Continuing education may be offered either in a  
12 classroom, online or by any other means approved by the  
13 registry.

14

15 (e) A licensed mortgage loan originator:

16

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

20

21 (ii) Shall not take the same approved course in  
22 the same year or successive years to meet the annual  
23 requirements for continuing education.

24

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

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

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

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

23  
24           **40-14-648. Authority to require license.**

1

2 (a) In addition to any other duties imposed upon the  
3 administrator by law, the administrator shall require  
4 mortgage loan originators to be licensed and registered  
5 through the registry. In order to carry out this  
6 requirement the administrator may participate in the  
7 registry. For this purpose, the administrator may  
8 establish by rule any requirements as necessary, including  
9 but not limited to:

10

11 (i) Background checks for:

12

13 (A) Criminal history through fingerprint or  
14 other databases;

15

16 (B) Civil or administrative records;

17

18 (C) Credit history; or

19

20 (D) Any other information as deemed  
21 necessary by the registry.

22

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

1

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

5

6 **40-14-649. Unique identifier; rulemaking.**

7

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

14

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

17

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

1

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

6

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

9

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

13

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

17

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

21

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

1 the client, unless the attorney is compensated by a lender,  
2 a mortgage broker or other mortgage loan originator or by  
3 any agent of such lender, mortgage broker or other mortgage  
4 loan originator;

5

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

14

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

24

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

5

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

7

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

14

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

21

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

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

3

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

9

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

13

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

17

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

21

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

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

6

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

14

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

21

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

23

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

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

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

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

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

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

24

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

7

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

11

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

14

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

21

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

24

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

3

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

6

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

9

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

13

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

18

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

22

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

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

10

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

13

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

19

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

22

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

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

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

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

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

1

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

7

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

11

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

14

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

17

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

19

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

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

3

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

9

10 (i) Ethics;

11

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

14

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

17

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

22

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

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

6

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

11

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

15

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

19

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

1

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

4

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

7

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

11

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

15

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

19

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

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

4

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

7

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

14

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

17

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

21

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

1

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

7

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

14

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

18

19 (e) A licensed mortgage loan originator:

20

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

24

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

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

10

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

16

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

21

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

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

3

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

5

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

9

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

11

12 The commissioner shall regularly report violations of this  
13 act, as well as enforcement actions and other relevant  
14 information, to the registry subject to the provisions  
15 contained in W.S. 40-23-112. The commissioner shall  
16 establish by rule a process where a mortgage loan  
17 originator may challenge information entered into the  
18 registry by the commissioner.

19

20 **40-23-133. Unique identifier; rulemaking.**

21

22 The unique identifier of any person originating a  
23 residential mortgage loan shall be clearly shown on all  
24 residential mortgage loan applications forms, solicitations

1 or advertisements, including business cards or websites and  
2 any other documents as established by rule of the  
3 commissioner.

4

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

23

1           7-19-106. Access to, and dissemination of,  
2 information.

3

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

7

8                   (xx) The state banking commissioner for purposes  
9 of licensing and registration pursuant to W.S. 40-14-642,  
10 40-23-103 and 40-23-125.

11

12           7-19-201. State or national criminal history record  
13 information.

14

15           (a) The following persons shall be required to submit  
16 to fingerprinting in order to obtain state and national  
17 criminal history record information:

18

19                   (xiii) Mortgage lenders, mortgage brokers,  
20 mortgage loan originators and persons identified in W.S.  
21 40-23-107(a)(iii), as necessary to perform the background  
22 checks required by W.S. 40-14-642(c)(i), 40-23-103(a)(viii)  
23 and 40-23-125(c)(i).

24

1           **40-14-120. Territorial application.**

2

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

7

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

11

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

17

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

21

22           **40-14-121. Exclusions.**

23

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

3

4 **40-14-140. General definitions.**

5

6 (a) In addition to definitions appearing in  
7 subsequent articles, in this act:

8

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

14

15 (xx) "Licensee" means an organization licensed  
16 under this act;

17

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

20

21 **40-14-142. Index of definitions.**

22

23 (a) Definitions in this act and the sections in which  
24 they appear are:

1

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

3

4 (lxi) "Clerical or support duties" - W.S.  
5 40-14-640(a)(ii);

6

7 (lxii) "Depository institution" - W.S.  
8 40-14-640(a)(iii);

9

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

11

12 (lxiv) "Federal banking agency" - W.S.  
13 40-14-640(a)(v);

14

15 (lxv) "Immediate family member" - W.S.  
16 40-14-640(a)(vi);

17

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

19

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

21

22 (lxviii) "Loan processor or underwriter" - W.S.  
23 40-14-640(a)(viii);

24

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

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

3

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

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

6

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

8 40-14-640(a)(xi);

9

10 (lxxii) "Registered mortgage loan originator" -

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

12

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

14

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

16 40-14-640(a)(xiv);

17

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

19

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

21 40-14-640(a)(xvi);

22

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

24 through 40-14-702.

1

2           **40-14-204. Definition of "consumer credit sale".**

3

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

7

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

14

15           **40-14-304. Definition of "consumer loan".**

16

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

21

22                       (iv) Either the principal does not exceed fifty  
23 thousand dollars (\$50,000.00) or the debt is secured by an  
24 interest in land or ~~by personal property used or expected~~

1 ~~to be used as the principal a dwelling, place of the debtor~~  
2 as defined in W.S. 40-14-640(a)(iv), located in Wyoming.

3  
4 **40-14-633. Crediting of monies.**

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

18  
19 **40-14-634. License required; application; fee;**  
20 **conditions and execution; license nontransferable; display;**  
21 **renewal.**

22  
23 (b) The administrator shall issue a license unless,  
24 upon investigation, he finds that the financial

1 responsibility, character and business qualifications of  
2 the applicant, and of the members thereof, if the applicant  
3 is a partnership or association, and of the officers and  
4 directors thereof if the applicant is a corporation, are  
5 such as to warrant belief that the business will not be  
6 operated honestly and fairly within the purposes of this  
7 act.

8  
9 (m) A license shall not be issued under subsection  
10 (b) of this section if the applicant has been convicted of,  
11 pled guilty or nolo contendere to, a felony in a domestic,  
12 foreign or military court during the seven (7) year period  
13 preceding the date of the application for licensing, or at  
14 any time preceding such date of application if such felony  
15 involved an act of fraud, dishonesty, breach of trust or  
16 money laundering.

17  
18 (n) A license may be issued at the discretion of the  
19 administrator under subsection (b) of this section if the  
20 applicant has been convicted of, pled guilty or nolo  
21 contendere to a misdemeanor in a domestic, foreign or  
22 military court involving an act of fraud, dishonesty,  
23 breach of trust or money laundering.

24

1           **40-14-635. Revocation or suspension of license.**

2

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

6

7           **40-14-636. Records; confidentiality.**

8

9           (a) For purposes of this section, "licensee" shall  
10 also mean a licensed mortgage loan originator pursuant to  
11 W.S. 40-14-640 and an organization employing or contracting  
12 with a mortgage loan originator.

13

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

1 revolving loan account the two (2) years is measured from  
2 the date of each entry.

3

4 (c) Except as provided in subsections (d), (e) and  
5 (j) of this section, all information or reports obtained by  
6 the administrator from an applicant or licensee are  
7 confidential.

8

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

24

1       (e) The administrator may enter into cooperative,  
2 coordinating or information sharing agreements with any  
3 other supervisory agency or any organization affiliated  
4 with or representing one (1) or more supervisory agencies  
5 with respect to the periodic examination or other  
6 supervision of any office in Wyoming of an out-of-state  
7 licensee, and the administrator may accept the parties'  
8 reports of examination and reports of investigation in lieu  
9 of conducting his own examinations or investigations.

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

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

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

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

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

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

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

22

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

4  
5       **40-23-102. Definitions.**

6  
7       (a) As used in this act:

8  
9           (v) "Licensee" means a ~~person~~company licensed  
10 under this act as a mortgage broker or a mortgage lender;

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

19  
20           (ix) "Mortgage lender" means any ~~person, other~~  
21 ~~than those exempt under W.S. 40-23-105~~company, who makes  
22 residential mortgage loans to borrowers or holds ~~himself~~  
23 itself out as able to make mortgage loans;

24

1           (xv) "Residential mortgage loan" means a first  
2 mortgage loan made primarily for personal, family or  
3 household use ~~and primarily secured by a security interest~~  
4 ~~on residential real property~~ that is secured by a mortgage,  
5 deed of trust or other equivalent consensual security  
6 interest on a dwelling or residential real estate in  
7 Wyoming upon which is constructed or intended to be  
8 constructed a dwelling;

9  
10           (xviii) "Channeling agent" means the third party  
11 licensing system that gathers the application information  
12 and distributes it to Wyoming for review for the approval  
13 or denial decision;

14  
15           (xix) "Clerical or support duties" means:

16  
17           (A) The receipt, collection, distribution  
18 and analysis of information common for the processing or  
19 underwriting of a residential mortgage loan; and

20  
21           (B) Communicating with a consumer to obtain  
22 the information necessary for the processing or  
23 underwriting of a loan, to the extent that such  
24 communication does not include offering or negotiating loan

1 rates or terms, or counseling consumers about residential  
2 mortgage loan rates or terms.

3

4 (xx) "Company" means a sole proprietorship,  
5 partnership, corporation, limited liability company or  
6 other entity, public or private;

7

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

11

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

18

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

24

1           (xxiv) "Immediate family member" means a spouse,  
2 child, sibling, parent, grandparent, grandchild,  
3 stepparent, stepchild, stepsibling and any adoptive  
4 relationship included in this paragraph;

5  
6           (xxv) "Individual" means a natural person;

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

13  
14           (xxvii) "Mortgage loan originator":

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

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

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

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24

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

(C) Shall not include a person who only performs real estate brokerage activities and is licensed or registered in accordance with Wyoming law, unless the person 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

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

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

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

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24

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

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

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

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

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

1

2

(xxx) "Registered mortgage loan originator"

3

means any individual who:

4

5

(A) Is registered with, and maintains a

6

unique identifier through, the registry; and

7

8

(B) Meets the definition of mortgage loan

9

originator and is an employee of:

10

11

(I) A depository institution;

12

13

(II) A subsidiary that is:

14

15

(1) Owned and controlled by a

16

depository institution; and

17

18

(2) Regulated by a federal

19

banking agency; or

20

21

(III) An institution regulated by the

22

farm credit administration.

23

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

8  
9            (xxxii) "Timeshare plan" means as defined in 11  
10 U.S.C. § 101(53D);

11  
12            (xxxiii) "Unique identifier" means a number or  
13 other identifier assigned by protocols established by the  
14 registry;

15  
16            ~~(xviii)~~ (xxxiv) "This act" means W.S. 40-23-101  
17 through ~~40-23-123~~ 40-23-133.

18  
19            **40-23-103. Powers and duties of commissioner.**

20  
21            (a) In addition to any other powers and duties  
22 imposed upon the commissioner by law, the commissioner  
23 shall:

24

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

7

8           **40-23-104. License requirements.**

9

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

15

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

22

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

1

2 (b) An application for license may be granted if the  
3 commissioner finds:

4

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

14

15 (iv) The applicant has not filed an application  
16 for a license which is false or misleading with respect to  
17 any material fact; ~~and~~

18

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

22

23 (vii) The applicant has not been convicted of,  
24 pled guilty or nolo contendere to a misdemeanor in a

1 domestic, foreign or military court involving an act of  
2 fraud, dishonesty, breach of trust or money laundering.

3  
4 **40-23-109. License renewal and annual report.**

5  
6 (a) Each mortgage broker and mortgage lender license  
7 issued under this act shall expire on December 31. The  
8 license shall be renewed annually not less than thirty (30)  
9 days before the stated expiration date. The renewal fee  
10 for each license shall not exceed one thousand dollars  
11 (\$1,000.00) for the home office location and an amount not  
12 to exceed one hundred dollars (\$100.00) for each additional  
13 location, as set by rule of the commissioner.

14  
15 **40-23-110. Surety bonds.**

16  
17 (a) All licensees shall maintain a surety bond to the  
18 state of Wyoming in accordance with this section. The  
19 surety bond shall be used to cover individual loan  
20 originators employed or under contract with a licensee.

21 The bond to be maintained shall be in the amount:

22  
23 (i) Until December 31, 2009, of twenty-five  
24 thousand dollars (\$25,000.00). This amount shall be

1 increased by an additional sum of ten thousand dollars  
2 (\$10,000.00) for each licensed office;~~;~~

3

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

8

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

18

19 ~~(b)~~(c) In the event that a licensee or person  
20 employed by or under contract with a licensee has violated  
21 any of the provisions of this act or of a rule or order  
22 lawfully made pursuant to this act, or federal law or  
23 regulation pertaining to the mortgage lending or mortgage  
24 brokering, and has damaged any person by such violation,

1 then the bond shall be forfeited and paid by the surety to  
2 the state of Wyoming for the benefit of any person so  
3 damaged, in an amount sufficient to satisfy the violation  
4 or the bond in its entirety if the violation exceeds the  
5 amount of the bond.

6

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

13

14 **40-23-112. Records; confidentiality of records;**  
15 **exception.**

16

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

21

22 (f) Except as provided in P.L. 110-289, section 1512,  
23 the requirements under any federal law or state law  
24 regarding the privacy or confidentiality of any information

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

13

14 (g) Information or material that is subject to a  
15 privilege or confidentiality under subsection (f) of this  
16 section shall not be subject to:

17

18 (i) Disclosure under any federal or state law  
19 governing the disclosure to the public of information held  
20 by an officer or agency of the federal government or the  
21 respective state; or

22

23 (ii) Subpoena, discovery or admission into  
24 evidence, in any private civil action or administrative

1 process, unless with respect to any privilege held by the  
2 registry with respect to such information or material, the  
3 person to whom such information or material pertains waives  
4 that privilege, in whole or in part.

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

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

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

21  
22 **40-23-118. License suspension or revocation.**

23

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

4

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

6

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

8

9

(END)