

3 AAC is amended by adding a new chapter to read:

**Chapter 14. Mortgage Lending.**

**Article**

1. Licensing (3 AAC 14.010 – 3 AAC 14.085)
2. Registration (3 AAC 14.110 – 3 AAC 14.155)
3. Originator Competency Testing and Continuing Education (3 AAC 14.210 – 3 AAC 14.280)
4. License Duration, Renewal, Inactivity, and Surrender (3 AAC 14.310 – 3 AAC 14.330)
5. Licensee Obligations (3 AAC 14.410 – 3 AAC 14.450)
6. Business Duties and Restrictions (3 AAC 14.510 – 3 AAC 14.515)
7. Investigation, Discipline, and Enforcement (3 AAC 14.610 – 3 AAC 14.615)
8. Originator Surety Fund (3 AAC 14.710 – 3 AAC 14.735)
9. Miscellaneous Provisions (3 AAC 14.810 – 3 AAC 14.820)
10. Definitions (3 AAC 14.990)

**Article 1. Licensing.**

**Section**

10. Mortgage lender license, exemption, or registration required
15. Mortgage broker license or exemption required
20. Licensing, registration, or exemption required for dual operation
25. Originator license, exemption, or registration required
30. License required for individual mortgage licensee to operate as an originator
35. Business from outside this state
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- 45. Exemption under AS 06.60.015
- 50. Exemption under AS 06.60.015(a)(2)
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- 70. Application for mortgage license
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- 80. Reimbursement of costs and investigative expenses related to applications
- 85. Payment of fees required
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**3 AAC 14.010. Mortgage lender license, exemption, or registration required.** (a) A person may not operate as a mortgage lender in this state unless

- (1) licensed by the department as a mortgage lender under AS 06.60.010(a);
- (2) licensed by the department for dual operation as a mortgage lender and mortgage broker under AS 06.60.010(d);
- (3) registered with the department as exempt from licensing under AS 06.60.015; or
- (4) registered with the department as a small mortgage lender under AS 06.60.017. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.010      AS 06.60.017      AS 06.60.910

AS 06.60.015

**3 AAC 14.015. Mortgage broker license or exemption required.** A person may not operate as a mortgage broker in this state unless

- (1) licensed by the department as a mortgage broker under AS 06.60.010(a);
- (2) licensed by the department for dual operation as a mortgage lender and mortgage broker under AS 06.60.010(d); or
- (3) registered with the department as exempt from licensing under AS 06.60.015.

(Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.010 AS 06.60.015 AS 06.60.910

**3 AAC 14.020. Licensing, registration, or exemption required for dual operation.** A person shall not operate as both a mortgage lender and mortgage broker unless

- (1) licensed by the department for dual operation under AS 06.60.010(d);
- (2) licensed separately by the department
  - (A) to operate as a mortgage lender and
  - (B) to operate as a mortgage broker;
- (3) registered by the department as a small mortgage lender and licensed by the department to operate as a mortgage broker; or
- (4) registered with the department as exempt from licensing under AS 06.60.015.

(Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.010 AS 06.60.015 AS 06.60.910

**3 AAC 14.025. Originator license, exemption, or registration required.** A person may not operate as an originator in this state unless

(1) licensed by the department as an originator and working under exclusive contract for, or as an employee of, a mortgage licensee under AS 06.60.010(b);

(2) licensed by the department as an originator as the single designated individual under AS 06.60.020(4) approved to receive an originator license for the mortgage licensee in accordance with the requirements of AS 06.60.035(c);

(3) registered by the department under AS 06.60.017 as a small mortgage originator and working under exclusive contract for, or as an employee of, a small mortgage lender; or

(4) hired as an employee of a person who operates as a mortgage lender or mortgage broker under a registered exemption of AS 06.60.015.

(Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.010            AS 06.60.020            AS 06.60.910  
                 AS 06.60.017            AS 06.60.035

**3 AAC 14.030. License required for individual mortgage licensee to operate as an originator.** A mortgage licensee who is a natural person may also be licensed as an originator if the individual meets the requirements of AS 06.60.035(c). (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.035            AS 06.60.910

**3 AAC 14.035. Business from outside this state.** A person doing business from outside this state under AS 06.60.010(a) includes persons doing business via the Internet, through the mail or a private delivery service, by telephone, or by other means of interstate communication. (Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.017 AS 06.60.910

**3 AAC 14.040. Operating in this state.** A person operates as a mortgage broker, mortgage lender, small mortgage lender, originator, or small mortgage originator in this state if the person communicates with a resident of this state or a person present in this state, whether in person, in writing, via the Internet, through the mail or a private delivery service, by telephone, or by other means of intrastate or interstate communication. (Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.017 AS 06.60.910

**3 AAC 14.045. Exemption under AS 06.60.015.** To obtain an exemption under AS 06.60.015(a), a person listed in AS 06.60.015(a)(1) – (9) shall submit a registration form to the department. The department shall review the eligibility of the person for the exemption based on the information provided to the department. A person required to be licensed as an originator who is an employee of a person who operates as a mortgage lender or mortgage broker under a registered exemption of AS 06.60.015 shall be exempt if the person’s employer has obtained an exemption under AS 06.60.015. Said person need not submit his or her own registration form under AS 06.60.015(b), but may be listed on the registration form of his or her employer under AS 06.60.015. A person who is not an employee, but who works as an

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independent contractor for a person who is registered as exempt under AS 06.60.015, remains subject to the Act, unless the person qualifies as an exclusive agent under AS 06.60.015(a)(4).

(Eff. \_\_\_/\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.015 AS 06.60.017 AS 06.60.910

**3 AAC 14.050. Exemption under AS 06.60.015(a)(2).** A person shall not be eligible for an exemption under AS 06.60.015(a)(2) until the department has received and reviewed the certification form required by AS 06.60.015(a)(2). (Eff. \_\_\_/\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.015 AS 06.60.017 AS 06.60.910

**3 AAC 14.055. Determination under AS 06.60.015(a)(4).** A person shall not be eligible for an exemption as an exclusive agent under AS 06.60.015(a)(4) until the department has received and reviewed the written determination required by AS 06.60.015(a)(4).

(Eff. \_\_\_/\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.015 AS 06.60.017 AS 06.60.910

**3 AAC 14.060. Biennial renewal of exemption.** An exemption issued under AS 06.60.015 shall expire two years after its issuance by the department. A complete registration form for the renewal of the exemption shall be submitted at least 30 days prior to the expiration of the exemption. (Eff. \_\_\_/\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.015 AS 06.60.017 AS 06.60.910

**3 AAC 14.065. Maintenance of exemption eligibility records.** A person claiming an exemption under AS 06.60.015 shall continuously maintain evidence of eligibility for the exemption and shall provide evidence of continuing eligibility upon request by the department.

(Eff. \_\_\_/\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.015 AS 06.60.910

**3 AAC 14.070. Application for mortgage license.** To apply for a mortgage license under AS 06.60.020, a person must submit

- (1) a complete application on a form established by the department;
- (2) a current Alaska business license;
- (3) a financial statement prepared within twelve months of the application;
- (4) a complete set of fingerprints, upon the department's request, of the applicant

and of the directors, officer, members, owners, and other principals of the applicant in order for the department to comply with AS 06.60.060(3) and AS 06.60.065(3)(B); except that the department shall not request fingerprints from all owners or principals when the number of owners or principals is so large that the request would pose an undue burden in light of the limited impact that any single owner or principal would have on the operations of the business;

(5) a designation of the sole natural person designated to obtain the originator license under AS 06.60.020(4) and AS 06.60.035(c), if the applicant seeks such an originator license and meets the requirements of AS 06.60.035(c); and

(6) such other information, documentation, and payments as allowed by AS 06.60 and required by the department. (Eff. \_\_\_/\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.020 AS 06.60.060 AS 06.60.910

AS 06.60.035

AS 06.60.065

**3 AAC 14.075. Application for originator license.** To apply for an originator license under AS 06.60.025, a person must submit

(1) a complete application on a form established by the department;

(2) identification of the mortgage licensee for whom the applicant will provide originator services and a copy of that mortgage licensee's mortgage license or other authorization from the department to operate as a mortgage licensee pursuant to AS 06.60;

(3) written verification that the applicant has received a passing score on the competency test required by AS 06.60.040;

(4) a complete set of fingerprints of the applicant in a form acceptable to the Alaska Department of Public Safety; and

(5) such other information, documentation, and payments as allowed by AS 06.60 and required by the department. (Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.025 AS 06.60.040 AS 06.60.910

AS 06.60.035 AS 06.60.065

**3 AAC 14.080. Reimbursement of costs and investigative expenses related to applications.** An applicant shall reimburse the department for reasonable costs and reasonable investigative fees incurred by the department before the department takes action on an application at the rate of \$75 per hour for investigative time, plus actual costs, including legal fees, incurred by the department in evaluating the application and addressing any potential grounds for denial. (Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.035 AS 06.60.250 AS 06.60.910

**3 AAC 14.085. Payment of fees required.** The department will not take action pursuant to an application unless the applicable fees established in AS 06.60 or in this chapter have been received. (Eff. \_\_\_/\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.910

**3 AAC 14.090. Notice of complete application.** The department shall provide written notice to the applicant of the receipt of a complete application, for the purpose of beginning the 30-day period described in AS 06.60.050. (Eff. \_\_\_/\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.020 AS 06.60.050 AS 06.60.910

AS 06.60.025

**3 AAC 14.095. Originator fee waiver.** (a) The natural person who is designated on a mortgage license application under AS 06.60.020(4) as the individual to receive an originator license for the mortgage licensee is not required to pay the application fee or the biennial license fee for the requested originator's license at the time of the initial license application or at the time of license renewal if

(1) the natural person is concurrently applying for or renewing both a mortgage license and an originator's license;

(2) the natural person is the principal owner or legally authorized manager of the mortgage license applicant; and

(3) the natural person pays the required fees and expenses under AS 06.60.035 or AS 06.60.105 for the initial mortgage license or its renewal.

(b) Only one natural person may receive a fee waiver under AS 06.60.035, AS 06.60.105, and this section.

(c) In AS 06.60.035(c), AS 06.60.105(d), and this section,

(1) “principal owner” means an individual who holds a majority of the ownership of the mortgage license applicant; and

(2) “legally authorized manager” means a manager for the mortgage license applicant, authorized as such by the owner(s) of the mortgage license applicant.

(Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.020 AS 06.60.105 AS 06.60.910

AS 06.60.035

**3 AAC 14.097. Abandoned applications.** (a) An application is considered abandoned when 12 months have elapsed since correspondence was last received from or on behalf of the applicant.

(b) An abandoned application is denied without prejudice and the application and biennial fees are forfeited. (Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.910

## **Article 2. Registration.**

### **Section**

110. Application for small mortgage lender registration

- 115. Application for small mortgage originator registration
- 120. Small mortgage originator employment or exclusive contract
- 125. Small mortgage lender operation through small mortgage originator
- 130. Loan limit for small mortgage lender
- 135. Change in control
- 140. Notice of material litigation
- 145. Application for renewal of small mortgage lender registration
- 150. Small mortgage originator registration renewal application
- 155. Notice of receipt of complete application

**3 AAC 14.110. Application for small mortgage lender registration.** To apply for registration as a small mortgage lender AS 06.60.017, a person must submit

- (1) a complete application on a form established by the department;
- (2) the application fee required by AS 06.60.017;
- (3) a sworn certification that all money used in the operation of the person's

business as a small mortgage lender belongs to the person and is not borrowed or received from another person. "Received," as used in AS 06.60.017(b)(3) and this paragraph, means obtained from an investor who retains a security interest or other ownership interest in the business of small mortgage lender.

- (4) a complete set of fingerprints of an applicant who is a natural person;
- (5) for an applicant that is a corporation, limited liability company, partnership,

or other business entity, a complete set of fingerprints of the directors, officers, members, owners, and other principals of the applicant;

(6) a signed acknowledgement that a registered small mortgage lender is prohibited from consummating more than six mortgage loans per year of registration; and

(7) such other information or documentation as the department may require.

(Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.017 AS 06.60.910

**3 AAC 14.115. Application for small mortgage originator registration.** (a) Each person required to have a small mortgage originator registration must apply to the department by filing a completed application on a form approved by the department and containing the information the department may require.

(b) The application for registration as a small mortgage originator shall include, but not be limited to

(1) identification of the registered small mortgage lender for whom the applicant will provide originator services and a copy of that small mortgage lender's registration or other authorization from the department to operate as a small mortgage lender pursuant to AS 6.60.017;

(2) a description of the employment or other contractual relationship that shall govern the originator applicant and a small mortgage lender subsequent to the originator's registration;

(3) a complete set of fingerprints of the applicant in a form that is acceptable to the Alaska Department of Public Safety.

(b) The applicant for an originator license shall certify under oath that all information and statements in the application or submitted in support of the application are true.

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(Eff. \_\_\_/\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.017 AS 06.60.910

**3 AAC 14.120. Small mortgage originator employment or exclusive contract.** A person registered as a small mortgage originator may not operate as an originator except as an employee of, or under exclusive contract for, a registered small mortgage lender.

(Eff. \_\_\_/\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.017 AS 06.60.157 AS 06.60.910  
AS 06.60.155

**3 AAC 14.125. Small mortgage lender operation through small mortgage originator.** A small mortgage lender may not operate as an originator except through a registered small mortgage originator. (Eff. \_\_\_/\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.017 AS 06.60.157 AS 06.60.910

**3 AAC 14.130. Loan limit for small mortgage lender.** A person registered as a small mortgage lender may not consummate more than six (6) mortgage loans per year of registration. As used in this article, “year of registration” means a twelve-month period beginning annually on the day and month that the original registration became effective. As used in this chapter and in AS 06.60, “mortgage loan” shall have the meaning set out in AS 06.60.990(19).

(Eff. \_\_\_/\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.017 AS 06.60.910 AS 06.60.990

**3 AAC 14.135. Change in control.** A person registered as a small mortgage lender shall provide written notice to the department of a change in the management or majority ownership of the small mortgage lender as listed in the most recent application for initial or renewed registration of the small mortgage lender at least 30 days prior to the effective date of such change. The change may not take effect without the prior written approval of the department. The department may require additional information in order to determine whether a new application is required. The registered small mortgage lender shall pay all reasonable expenses incurred by the department to investigate and approve or deny the change in control.

(Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.130 AS 06.60.910

**3 AAC 14.140. Notice of material litigation.** A registered small mortgage lender shall provide written notice to the department within 30 days of the receipt by the registered entity of written notice of material litigation. (Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.910

**3 AAC 14.145. Application for renewal of small mortgage lender registration.** A small mortgage lender applying for renewal of its registration shall provide to the department

- (1) a current Alaska business license;
- (2) a financial statement prepared within twelve months of the renewal application;
- (3) a sworn certification attesting to

(A) changes in the information provided to the department at the time of the initial application for registration or at the most recent renewal of registration; or

(B) the continuing accuracy of the information previously provided to the department.

(4) such other information and documentation as the department may require.

(Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.017 AS 06.60.910

**3 AAC 14.150. Small mortgage originator registration renewal application.** A small mortgage originator applying for renewal of registration shall provide

(1) a sworn certification attesting to

(A) changes in the information provided to the department at the time of the initial application for registration or at the most recent renewal of registration; or

(B) the continuing accuracy of the information previously provided to the department; and

(3) such other information and documentation as the department may require.

(Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.017 AS 06.60.910

**3 AAC 14.155. Notice of receipt of complete application.** The department shall provide written notice to the applicant of the receipt of a complete application, for the purpose of beginning the 30-day period described in AS 06.60.017. (Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.017 AS 06.60.910

**Article 3. Originator Competency Testing and Continuing Education.**

**Section**

- 210. Originator competency testing
- 215. Competency test review
- 220. Originator continuing education requirements
- 225. Submission of continuing education course for department accreditation
- 230. Review of accredited instruction
- 235. Presumptive accreditation of continuing education course
- 240. Suspension of accreditation of continuing education
- 245. Reinstatement of accreditation
- 250. Renewal of accreditation of continuing education
- 255. Prohibited practices
- 260. Education committee appointments
- 265. Education committee organization
- 270. Education committee meeting quorum
- 275. Education committee meetings
- 280. Publication of approved training programs

**3 AAC 14.210. Originator competency testing.** (a) The originator competency test that an applicant must pass under AS 06.60.040 shall be provided by a certified testing authority approved by the department.

(b) The originator competency test shall address compliance with legal provisions relevant to a person operating as an originator.

(c) The minimum passing score on the originator competency test shall be 75 percent.

(d) The department will set the fee for administering the test the first time based on costs incurred by the department, including charges imposed by the certified testing authority. The fee for each additional competency test that the department provides to the person shall be \$150.

(e) The originator competency test shall be administered no less frequently than quarterly. The department shall publish, on the Internet at <http://www.commerce.state.ak.us>, the [http://www.\\_\\_\\_\\_\\_/schedule](http://www._____/schedule) of times and locations at which the examination will be administered.

(Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.040 AS 06.60.910

**3 AAC 14.215. Competency test review.** (a) The department will follow the test review procedures established in this section unless the certified testing authority that prepares and owns the test has procedures for test review that conflict with the procedures in this section. When there is a conflict, the department will follow the procedures of the certified testing authority that prepares and owns the test.

(b) An applicant who wishes to review a failed test shall submit a written request, and the applicable test review fee specified in this chapter, to the department within 30 days after the notice of examination results is mailed to the applicant.

(c) All test reviews will be conducted in the presence of department staff or the department's designee at the time and location determined by the department. A test review will not be conducted within 30 days of the next test the applicant is scheduled to take.

(d) Only an applicant who has failed a test may participate in the review and the applicant may review only his or her own test.

(e) An applicant may use the same reference materials during a test review that were allowed during the test itself. Applicants may not use other materials or take notes or make copies of any kind. All materials brought to a review are subject to inspection by the department.

(f) An applicant may challenge questions on the test by submitting the challenge in writing during the time allowed to conduct the test review under (h) of this section. The written challenge to a test question must include

- (1) the applicant's name;
- (2) the date of the test;
- (3) the title of the test;
- (4) the number of the question being challenged; and
- (5) a detailed explanation of the reason for the challenge.

(g) A challenge to a test question will be reviewed by the department or the certified testing authority administering the test. If the department or the certified testing authority sustains a challenge to a test question, the department will give credit to the applicant for that question.

(h) To conduct the test review, the department will allow the applicant challenging a question under (f) of this section one half of the length of time that was allowed for the taking of the test being reviewed.

(i) Unless the release is prohibited by the certified testing authority or is otherwise prohibited by law or contract, the department will provide an applicant who requests a test review with the questions answered incorrectly on the failed test and the answer that the

applicant selected only. If the test contains multiple choice questions, the applicant may be provided with all of the answer selections to each failed question without identification of the correct answers. (Eff. \_\_\_/\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.040 AS 06.60.910

**3 AAC 14.220. Originator continuing education requirements.** (a) Continuing education courses will satisfy the requirements of AS 06.60.160 only if first accredited by the department.

(b) Educational course work submitted to satisfy the originator continuing education requirements under AS 06.60.160 must occur within the biennial license period prior to license renewal or reactivation.

(c) Accredited instruction shall be of a minimum duration of one credit hour and shall contribute to the goal of maintaining or increasing the knowledge, skill, and competence of an originator necessary to operate in compliance with law. The principal focus of accredited instruction shall not be sales, marketing, commercial lending or commercial loan brokering, motivational goals, or skills pertaining to running a business.

(d) An originator who successfully completes a course of accredited instruction may not receive continuing education credit for repeating that course within the same biennial reporting period.

(e) An originator licensee shall submit to the department a certificate of completion issued by the accredited education provider with the license renewal or reactivation application.

An originator licensee shall maintain copies of certificates of completion for all accredited

educational courses for a period of no less than three years following completion of the accredited instruction.

(f) An originator licensee who fails to complete the continuing education required by AS 06.60.160 and this chapter or fails to timely submit the continuing education confirmation to the department shall be subject to license revocation and suspension. Upon revocation or suspension of a license for failure to complete or report continuing education requirements, a person shall not obtain a new license or reinstated license without first satisfying the applicable continuing education requirements. (Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.160 AS 06.60.910

**3 AAC 14.225. Submission of continuing education course for department accreditation.** (a) Education providers shall submit an application, in a form provided by the department, for accreditation of each instructional course proposed to be offered by the education provider.

(b) The applicant for course approval shall submit with the application a nonrefundable application fee of \$250 and shall include, but not be limited to, the following information:

(1) the name and address of the education provider and proposed dates(s) and location of the course;

(2) the qualifications and experience of the education provider's principal officers, staff, and instructor(s);

(3) the cost for each course for which accreditation is sought;

(4) a copy of the proposed course materials together with a description of each course for which accreditation is sought; and

(5) a sample of what is provided to participants to verify course completion.

(c) The commissioner shall grant accreditation to a continuing education course if

(1) the course constitutes an organized program of learning that provides

instruction on the following subject matter:

(A) Basics of home purchase and ownership;

(B) The residential mortgage industry generally;

(C) Residential mortgage loan evaluation and documentation;

(D) Features of residential mortgage loan products;

(E) State and federally required disclosures;

(F) Ethical considerations in residential mortgage industry;

(G) The Alaska Mortgage Lending Regulation Act;

(H) Law related to mortgages, deeds of trust, and liens;

(I) Real estate and appraisal law;

(J) Principal and agency law;

(K) Contract law;

(L) The Real Estate Settlement Procedures Act; or

(M) Truth in Lending and the federal Consumer Credit Protection Act.

(2) The course materials are prepared and instruction conducted by an individual or group qualified by practical or academic experience in the subject matter to be presented;

(3) The course shall be presented in a setting physically suited to the educational activity and in a manner that allows for participant interaction and comprehension of course materials. Training facilities for class settings shall comply with applicable state and federal laws, including the Americans with Disabilities Act of 1990;

(4) Course outlines, syllabi, workbooks, examinations, study guides, and other instructional material are of high quality and relevant to the course of study offered;

(5) The prospective education provider's application is complete and truthful.

(Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.160 AS 06.60.910

**3 AAC 14.230. Review of accredited instruction.** (a) An education provider shall designate one person as its contact person who shall be available to the commissioner during ordinary business hours and shall be knowledgeable and have the authority to act with regard to all administrative matters concerning instructors, scheduling, advertising, recordkeeping, and supervising all programs offered by the education provider.

(b) The commissioner may periodically audit the content, teaching methods, and administration of the accredited continuing education for the purpose of verifying that such accredited instruction continues to meet the requirements of this chapter. Upon a finding that the accredited instruction no longer meets the requirements of this chapter, the commissioner may suspend or revoke the accreditation. The education provider shall be responsible for payment for the expense of audits conducted under this rule.

(c) Prior to implementing any material change in the accredited continuing education, the educational provider shall receive the written approval of the department.

(d) Within 30 days of the conclusion of a course of accredited continuing education, an education provider shall submit to the department an attendance roster in a form approved the department. Education providers shall maintain records related to participant attendance and

completion of accredited continuing education for no less than three years after the conclusion of the instruction. (Eff. \_\_\_/\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.160 AS 06.60.910

**3 AAC 14.235. Presumptive accreditation of continuing education course.** (a) An educational course that covers subject matter listed in 3 AAC 14.225(c)(1) and that is provided by the following listed organizations is presumptively accredited and no application for accreditation is required, unless the department determines otherwise:

- (1) The National Association of Mortgage Brokers;
- (2) The Mortgage Bankers Association;
- (3) The National Association of Professional Mortgage Women;
- (4) Federal National Mortgage Association;
- (5) Federal Home Loan Mortgage Corporation;
- (6) The American Bankers Association;
- (7) The Conference of State Bank Supervisors;
- (8) The American Association of Residential Mortgage Regulators;
- (9) Regulatory agencies of any state or of the United States that have regulatory

authority over mortgage-related activity;

(10) Institutions of higher education accredited by an agency of this state or another state. (Eff. \_\_\_/\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.160 AS 06.60.910

**3 AAC 14.240. Suspension of accreditation of continuing education.** The accreditation by the department of a continuing education course may be suspended if

(1) the accredited instructional teaching method or content no longer meets the standards of this chapter or has been materially changed without notice to the department as required;

(2) the education provider granted a certificate of completion when in fact the participant had not satisfactorily completed the accredited instruction;

(3) the education provider failed to grant a certificate of completion to a participant when in fact the participant had satisfactorily completed the accredited instruction; or

(4) other good cause for suspension of approval.

(Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.160 AS 06.60.910

**3 AAC 14.245. Reinstatement of accreditation.** The department shall reinstate the suspended accreditation upon proof satisfactory to the department that the conditions responsible for the suspension have been corrected. (Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.160 AS 06.60.910

**3 AAC 14.250. Renewal of accreditation of continuing education.** Accreditation of a continuing education course shall expire two years from the date of issuance and thereafter on each subsequent two year anniversary of the renewal date. Application for renewal of accreditation shall be filed with the department no later than thirty days prior to such expiration date and shall be accompanied by a nonrefundable renewal fee of \$150. Applications for renewal of accreditation shall be in a form prescribed by the department and shall include

documentation demonstrating that the accredited instruction continues to meet the requirements of this chapter. (Eff. \_\_\_/\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.160 AS 06.60.910

**3 AAC 14.255. Prohibited practices.** (a) A person shall not represent in any manner that an instructional course has received accreditation from the department or that participants will receive credit hours for attendance and completion of an instructional course, unless such course has been accredited by the department.

(b) A person shall not misrepresent, circumvent, or conceal, through whatever subterfuge or device, material information regarding the status, content, teaching methods, or administration of an instructional course offered to participants for the purpose of meeting the continuing education requirements of this chapter. (Eff. \_\_\_/\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.160 AS 06.60.910

**3 AAC 14.260. Education committee appointments.** Pursuant to AS 06.60.160, the commissioner shall appoint the members of the education committee for staggered terms of four years. A member of the education committee serves until a successor is appointed. An appointment to fill a vacancy on the education committee is for the remainder of the unexpired term. A member who has served all or part of two successive terms on the education committee may not be reappointed to the education committee unless four years have elapsed since the person last served on the education committee. (Eff. \_\_\_/\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.160 AS 06.60.910

**3 AAC 14.265. Education committee organization.** The commissioner shall designate the chair of the education committee and a secretary may be elected by the members of the committee. (Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.160 AS 06.60.910

**3 AAC 14.270. Education committee meeting quorum.** A majority of the membership of the education committee constitutes a quorum. (Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.160 AS 06.60.910

**3 AAC 14.275. Education committee meetings.** The education committee shall hold meetings as needed to make recommendations to the department regarding applications for accreditation for continuing education courses under this chapter.

(Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.160 AS 06.60.910

**3 AAC 14.280. Publication of approved training programs.** The department shall publish on the Internet on a regular basis a listing of the training programs that may be used to satisfy the continuing education requirements of this chapter.

(Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.160 AS 06.60.910

#### **Article 4. License Duration, Renewal, Inactivity, and Surrender.**

##### **Section**

310. License renewal

315. License or registration or exemption lapse

320. Effective date of renewed license, registration, or exemption

325. Inactive license

330. Surrender of mortgage license

**3 AAC 14.310. License renewal.** (a) Upon receipt of a complete application for renewal under AS 06.60.085, the department shall send written notice to the applicant indicating that the 30-day period described in AS 06.60.085(b) has commenced.

(b) In the application for license renewal, the applicant shall submit to the department a sworn certification identifying any changes in the information presented in the initial license application or in the most recent renewal application. (Eff. \_\_\_/\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.085 AS 06.60.910

**3 AAC 14.315. License or registration or exemption lapse.** (a) If a license or registration or exemption is not renewed by the date set for its expiration, the license, registration, or exemption lapses. In addition to renewal fees required for reinstatement of the lapsed license, registration, or exemption, the department may impose a delayed renewal penalty that shall be paid before a license, registration, or exemption that has lapsed may be renewed.

(b) When continuing education or other requirements are made a condition of license renewal, the requirements shall be satisfied before a license is renewed.

(c) A license or registration may not be renewed and a new application or exemption form for licensure or registration will be required, if it has been lapsed for more than 60 days.

(Eff. \_\_\_/\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.085 AS 06.60.910

**3 AAC 14.320. Effective date of renewed license, registration, or exemption. (a)**

The department may, in its discretion, show a retroactive effective date on a licensee's, registrant's, or exempt person's renewed license, registration, or exemption if the licensee, registrant, or exempt person

(1) holds a license, registration, or exemption that has been lapsed fewer than 60 days;

(2) requests in writing that the department issue a renewed license, registration, or exemption showing an effective date that is earlier than the date the renewed license, registration, or exemption was issued;

(3) documents that the licensee, registrant, or exempt person was in substantial compliance with the renewal requirements in AS 06.60.085 as of the requested effective date; and

(4) establishes to the satisfaction of the department that the licensee, registrant, or exempt person made a good faith effort to strictly comply with the renewal requirements.

(b) The department will not issue a renewed license, registration, or exemption with an effective date that is earlier than the postmark date of the licensee's, registrant's or exempt person's first written attempt to renew the license or registration. "Written attempt to renew" means an effort by the licensee, registrant, or exempt person to submit the proper documentation to comply with the renewal requirements. A request for a renewal application form alone does not constitute a "written attempt to renew." (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

**Authority:** AS 06.60.085 AS 06.60.910

**3 AAC 14.325. Inactive license.** If a license becomes inactive under AS 06.60.090, the license remains inactive until the license expires or is revoked or suspended, the person who holds the inactive license surrenders the license, or the department grants the person's request to reactivate the license, whichever first occurs. (Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.090 AS 06.60.910

**3 AAC 14.330. Surrender of mortgage license.** The voluntary surrender of a mortgage license shall not be effective until the mortgage licensee has provided proof acceptable to the department that all loans of that mortgage licensee have either been paid in full or sold. As used in AS 06.60.097(b), "mortgage loan activity" means for a mortgage lender, consummating a loan; for a mortgage broker, entering into a brokerage agreement; and for an originator, accepting a loan application. (Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.097 AS 06.60.910

## **Article 5. Licensee Obligations.**

### **Section**

- 410. Reports
- 415. Supervision required
- 420. Records of mortgage licensee
- 425. Branch offices
- 430. Office closure
- 435. Location of business
- 440. Nontransferability

445. Amendments to information on file with department

450. Termination of operations

**3 AAC 14.410. Reports.** (a) The mortgage licensee shall submit the annual report required by AS 06.60.100 under oath or affirmation, or with notice that false statements made are punishable as unsworn falsification in the second degree under AS 11.56.210.

(b) The annual report must include, as to the mortgage licensee,

(1) the total number and dollar amount of mortgage loans made;

(2) the total number of mortgage loan applications received;

(3) the total number of brokerage agreements executed;

(4) the total number of persons hired by the mortgage licensee to operate as originators, the number who were hired as employees, and the number who were hired under an exclusive contract;

(5) any other information the department determines is required to conduct its review.

(c) Within 15 days after the commencement of any material litigation, a mortgage licensee shall file a written report with the department describing the material litigation that names the mortgage licensee, an originator hired by the mortgage licensee, whether on contract or as an employee, or any partner, member, officer director, shareholder meeting the ownership thresholds of AS 06.60.020(6), or any manager meeting the ownership threshold of AS 06.60.020(7) and its expected effect on the activities of the licensee.

(Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.100 AS 06.60.910

**3 AAC 14.415. Supervision required.** (a) A mortgage licensee shall supervise all operations and personnel at its principal office and any branch offices to insure compliance with AS 06.60 and this chapter. The mortgage licensee shall diligently supervise each person operating as an originator for the mortgage licensee, whether under an exclusive contract or as an employee.

(b) The mortgage licensee shall

(1) establish, maintain, and enforce procedures to supervise the activities of all personnel, including persons operating as originators on behalf of the mortgage licensee;

(2) monitor and review the activities of all personnel at each business location, including persons operating as originators on behalf of the mortgage licensee;

and

(3) ensure that each originator working on behalf of the mortgage licensee has the training and education needed to comply with AS 06.60 and this chapter; and

(4) maintain a list of all person with whom the mortgage licensee has an “affiliated business arrangement” at each location as that term is used in the Real Estate Procedures Settlement Act, 12 U.S.C. 2601 – 2617, as it may be amended from time to time.

(Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.159 AS 06.60.910

**3 AAC 14.420. Records of mortgage licensee.** (a) A mortgage licensee shall maintain the following records:

(1) a list of all executed loan applications or executed fee agreements that provides the following information:

- (A) Applicant's name;
- (B) Application date;
- (C) Amount of initial loan request;
- (D) Final disposition date;
- (E) Disposition (funded, denied); and
- (F) Name of originator;

(2) a record, such as a cash receipts journal, of all money received in connection with a mortgage loan including:

(A) the original contract with the customer for the mortgage licensee's compensation:

(B) copies of the note, settlement statement, and truth-in-lending disclosure; and

(C) an account of fees received in connection with the loan, and other papers or records relating to the loan that may be required by department order or any applicable state or federal regulation.

(3) a trust subsidiary ledger for each borrower that deposits trust funds showing:

- (A) Borrower's name and co-borrowers' names;
- (B) Loan number, if any;
- (C) Amount received;
- (D) Purpose for the amount received;
- (E) Date received;
- (F) Date deposited into trust account;
- (G) Amount disbursed;

- (H) Date disbursed;
  - (I) Disbursement's payee and purpose; and
  - (J) Balance;
- (4) a file for each application for a mortgage loan containing:
- (A) Documentation showing the application's final disposition, such as a settlement statement, or a denial or withdrawal letter;
  - (B) Correspondence sent, received, or both, by the mortgage licensee;
  - (C) Contract, agreement and escrow instructions to or with any depository institution;
  - (D) Documents showing compliance with federal law referenced in AS 06.60.300; and
  - (E) Itemized list of all fees taken in advance of the closing of a loan, including appraisal fee, credit report fee, and application fee;
- (5) a copy of advertising which references the mortgage licensee's business or which was paid for by the mortgage licensee;
- (6) copies of any governmental or regulatory compliance reviews;
- (7) if the mortgage licensee is not a natural person, a file containing:
- (A) Organizational documents for the entity;
  - (B) Minutes of board of directors or members meetings;
  - (C) A record, such as a stock or ownership transfer ledger, showing ownership of all proportional equity interests in the licensee, ascertainable as of any given record date; and
  - (D) Annual report, if required by state or federal law;

(8) if the mortgage licensee or a person directly or indirectly owning more than 40% of the mortgage licensee has a felony conviction, a copy of the judgment or other record of conviction;

(9) if the mortgage licensee or a person directly or indirectly owning more than 40% of the licensee has, in the previous seven years, been named a defendant in any civil suit, a copy of the complaint, any answer filed by the licensee, and any judgment, dismissal or other final order disposing of the action;

(10) if the department has granted approval to maintain records outside this state, the specific address where the records are kept, and a person's name and telephone number to contact for them; and

(11) other records required to be maintained pursuant to state or federal law.

(b) If a licensee does business in other states, it must be able to separate Alaska loan information from information relating to other states to enable the department to conduct an examination. (Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.135 AS 06.60.910

**3 AAC 14.425. Branch offices.** (a) A mortgage licensee must submit an application for a branch office on a form provided by the department, including

- (1) the address of the proposed branch office;
- (2) identification of the principal office;
- (3) the name and qualifications of the individual designated to manage the branch office; and

(4) the name of each mortgage licensee, registered small mortgage lender or originator, and licensed originator who will work at the branch office.

(b) A license for a branch office may be issued only in the name in which the mortgage licensee is licensed to conduct business at its principal office.

(c) A mortgage licensee is responsible for and shall supervise all business operations and personnel at a branch office of the mortgage licensee. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.110 AS 06.60.910

**3 AAC 14.430. Office closure.** (a) A mortgage licensee or registered small mortgage lender may not close the principal office or a branch office without the prior written approval of the department. A mortgage licensee or registered small mortgage lender shall file an application for the approval of the closure of the principal office or a branch office.

(b) The application for office closure shall contain the information the department may require, including

(1) the status of each incomplete or pending application for a mortgage loan; the manner in which the loan application will be finalized, transferred or returned; and an accounting of any funds received by the mortgage licensee, registered small mortgage lender or originator, or licensed originator from the borrower or potential borrower;

(2) an accounting of any trust or escrow account maintained by the mortgage licensee and a plan for distribution of money in the account;

(3) if any originator employed by or under contract with the mortgage licensee has been terminated, evidence of the termination; and

(4) the location in this state where records of the mortgage licensee will be maintained following the office closure.

(c) The approval by the department of an office closure shall not take effect until the mortgage licensee or registered small mortgage lender has complied with the conditions of the department's approval and returned its license or registration to the department.

(Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.910

**3 AAC 14.435. Location of business.** A mortgage licensee may share office space with another business if

(1) each business has a separate and distinct office space and signage such that a reasonable customer will understand which business the customer is transacting business with at all times;

(2) each business operates as a separate legal entity with distinct personnel; and

(3) each business maintains separate accounts, books, and records;

(Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.110 AS 06.60.910

**3 AAC 14.440. Nontransferability.** (a) An attempt to transfer or assign the licensee's business or effect a change in control without the prior written approval of the department shall

(1) be ineffective;

(2) be grounds for immediate revocation of such license;

(3) render the assignor licensee responsible for any and all actions or omissions of its assignee which occur while acting under the apparent authority of such license.

(b) A mortgage licensee shall reimburse the department for expenses incurred to investigate a change in control or a material change in the business operations of a mortgage licensee. (Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.120 AS 06.60.910

**3 AAC 14.445. Amendments to information on file with department.** A licensee or registered small mortgage lender or small mortgage originator shall notify the department in writing within 30 days of any material change in any document or information previously submitted to the department. (Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.910

**3 AAC 14.450. Termination of operations.** A registrant or a licensee shall notify the department in writing of its decision to cease operations as a registrant or licensee within seven days of such decision. (Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.910

## **Article 6. Business Duties and Restrictions.**

### **Section**

510. Misleading, unfair, or deceptive advertising

515. Unfair or deceptive mortgage loan practices

**3 AAC 14.510. Misleading, unfair, or deceptive advertising.** (a) Misleading, unfair, or deceptive advertising under AS 06.60.320 and AS 06.60.340(11) includes, but is not limited to, the following practices by a person who is required to be licensed or registered by AS 06.60:

(1) making a representation or statement of fact in an advertisement if the representation or statement is false or misleading, or has the tendency or capacity to be misleading, or if the person does not have sufficient information upon which a reasonable belief in the truth of the representation or statement could be based;

(2) advertising without clearly and conspicuously disclosing the mortgage licensee's or small mortgage lender's complete business name, mortgage license number, and the address and telephone number that the mortgage licensee or small mortgage lender has on file with the department;

(3) advertising an address at which the mortgage licensee conducts no mortgage brokering or mortgage lending activities;

(4) advertising in a manner that has the effect of misleading a person to believe that the advertisement or solicitation is from a person's current mortgage holder or a government agency, that an offer is a limited opportunity, or that a check is included in the advertising materials, when such is not the case;

(5) advertising any program which would be in violation of Regulation X, 24 CFR 3500, *et seq.*, as amended, including the provisions regarding kickbacks, unearned fees, and the solicitation of referrals with a promise to pay the advertising costs of any settlement provider;

(6) misrepresenting, directly or by failure to adequately disclose, the terms, conditions or charges incident to the mortgage loan being advertised; included in this prohibition is advertising an offer to procure, arrange, or otherwise assist a borrower in obtaining a mortgage

loan on terms which the mortgage licensee cannot or does not intend to provide, or which the mortgage licensee knows or should know at the time the advertisement is made cannot reasonably be provided. Violations of this paragraph include, but are not limited to the following:

(A) advertising terms of credit while knowingly failing to disclose material limitations on the availability of that credit;

(B) using “avoid foreclosure” or words of similar import in an advertisement unless the advertisement also clearly and conspicuously discloses:

(i) that the borrower must refinance the mortgage in default and/or take a new mortgage loan;

(ii) that the borrower may be required to pay interest rates significantly higher than what other borrowers not facing foreclosures might pay; and

(iii) the warning that “you may lose your home if you cannot make all the payments or if you miss any of the payments on this loan;” and

(7) advertising in contravention of applicable federal regulations.

(Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.320 AS 06.60.340 AS 06.60.910

**3 AAC 14.515. Unfair or deceptive mortgage loan practices.** (a) Unfair or deceptive act or practices under AS 06.60.340(11) include, but are not limited to

(1) charging a prepayment penalty that violates AS 45.45.010(g);

(2) failing to give to the borrower or his or her attorney the time and reasonable opportunity to review each document that relates to a mortgage loan and is required by this chapter or other applicable law prior to the disbursement of the mortgage loan funds;

(3) accepting any fees required to be disclosed by applicable law that are not disclosed in accordance with applicable law;

(4) refusing to permit a borrower to be represented by the attorney of his or her choice in any part of the process of obtaining a mortgage loan.

(5) for a mortgage broker, engaging the services of (another) mortgage broker who will charge the borrower an additional fee without obtaining in advance the written permission of the borrower to charge that fee, the amount of which shall be specified in writing;

(6) directly or indirectly, regardless of the receipt or the expectation of receipt of compensation from the contractor,

(A) providing loan application documents to a home improvement contractor for use by such contractor in connection with the financing by mortgage loans of home improvement contracts;

(B) using a home improvement contractor as an agent for its business; or

(C) accepting a mortgage application from a contractor on behalf of a third party.

(Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.340 AS 06.60.910

## **Article 7. Investigation, Discipline, and Enforcement.**

### **Section**

610. Disciplinary action

615. Investigation and examination

**3 AAC 14.610. Disciplinary action.** The department may take disciplinary action under AS 06.60.200 against a registrant under AS 06.60.017 or a licensee. The department may take disciplinary action against the mortgage licensee or the small mortgage lender based on the conduct of a person operating as an originator under exclusive contract or as an employee of the mortgage licensee or the small mortgage lender. The department may also take disciplinary action against the person operating as an originator. (Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.200 AS 06.60.910

**3 AAC 14.615. Investigation and examination.** The department may investigate and examine the affairs, business premises, and records of a person required to be licensed or registered under AS 06.60. A person who is the subject of the examination or investigation shall reimburse the department for reasonable costs and reasonable investigative fees incurred by the department at the rate of \$75 per hour for investigative time, plus actual costs, including legal fees, incurred by the department in examining and investigating the person. (Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.250 AS 06.60.910

**Article 8. Originator Surety Fund.**

**Section**

710. Claims

715. Current address of claimant

- 720. Notification of claim
- 725. Department action when no hearing request
- 730. Department decision
- 735. Disciplinary action based on final decision
- 740. Addition of licensee file

**3 AAC 14.710. Claims.** Claims for reimbursement from the originator surety fund under AS 06.60.500 must

- (1) be accompanied by the filing fee established by AS 06.60.620;
- (2) be submitted on a form provided by the department;
- (3) assert a claim for a loss suffered in a mortgage loan transaction as a result of fraud, misrepresentation, deceit, or the conversion of money by the involved originator licensee;
- (4) include a current mailing address and telephone number for the claimant;
- (5) include a current mailing address and telephone number for the mortgage licensee for whom the originator licensee worked, whether as an employee or under an exclusive contract, during the time period relevant to the claim;
- (6) include a current mailing address and telephone number for any party involved in the mortgage loan transaction that is the subject of the fund claim;
- (7) include all the information required by AS 06.60.580 and the claim form itself; and
- (8) be executed under penalty of unsworn falsification.

(Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.580 AS 06.60.620 AS 06.60.910

**3 AAC 14.715. Current address of claimant.** The claimant shall notify the department in writing of any change in its mailing address or telephone number while its claim is pending. Failure to maintain a current mailing address and telephone number on file with the department while a claim is pending may result in dismissal of the claim.

(Eff. \_\_\_/\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.580 AS 06.60.910

**3 AAC 14.720. Notification of claim.** (a) Within 30 days of receipt of a fund claim filed under AS 06.60.570 and at least twenty days before a hearing is held on the fund claim, the department will mail a copy of the claim, and any documentary material filed with the claim to those entitled to notice under AS 06.60.600.

(b) “Employer of the originator licensee” as used in AS 06.60.600(2) includes a person who employs the originator licensee under an exclusive contract or as an employee.

(c) The department’s duty to mail the claim to “any other parties involved in the mortgage loan transaction” under AS 06.60.600(3) is satisfied by mailing the claim to the parties involved in the mortgage loan transaction who are disclosed in the claim form filed with the department.

(d) The department will mail the documents described in (a) of this section by certified mail, return receipt requested. (Eff. \_\_\_/\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.600 AS 06.60.640 AS 06.60.910

**3 AAC 14.725. Department action when no hearing request.** If an involved licensee does not file a timely request for hearing after receiving written notice of a claim, the department

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shall review the materials submitted by the claimant and apply the standards in AS 06.60.680 to determine whether to award the claimant reimbursement from the fund.

(Eff. \_\_\_/\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.680 AS 06.60.910

**3 AAC 14.730. Department decision.** The decision of the commissioner to accept or reject the proposed decision of the Office of Administrative Hearings as to a fund claim or the decision of the department under 3 AAC 14.725 shall be set out in a report in compliance with AS 06.60.680 that shall be the final decision of the department.

(Eff. \_\_\_/\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.680 AS 06.60.910

**3 AAC 14.735. Disciplinary action based on final decision.** The department may use the final decision as to the fund claim as the basis for disciplinary action against a licensee.

(Eff. \_\_\_/\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.680 AS 06.60.910

**3 AAC 14.740. Addition to licensee file.** When the department pays a claim from the fund, the following information will be added to the license file of each originator licensee named in the findings and conclusions as responsible for the loss:

- (1) a copy of the findings and conclusions and the order adopted by the department; and
- (2) proof of payment from the fund to the claimant.

(Eff. \_\_\_/\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.210 AS 06.60.670 AS 06.60.680  
AS 06.60.650

## **Article 9. Miscellaneous Provisions.**

### **Section**

810. Filing date

815. Name and address changes

820. Administrative fees

**3 AAC 14.810. Filing date.** (a) An application for department action under AS 06.60 and this chapter shall be considered filed as of the postmark date of the document. If the document is submitted by a method that does not provide a postmark date, the document will be considered filed as of the date stamped or otherwise marked on the document when it is received at the following address for the department in Juneau: Division of Corporations, Business and Professional Licensing, Department of Commerce, Community, and Economic Development, P.O. Box 110806, Juneau, AK 99811-0806. An electronic filing, when allowed, shall be considered filed at the time the filing is received in electronic form by the department.

(b) For the purposes of this section, “postmark date” means the date of mailing stamped or otherwise marked by the United States Postal Service or other domestic courier service on a document with prepaid postage and correctly addressed to the department as set out in subsection (a) of this section. (Eff. \_\_\_/\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.910

**3 AAC 14.815. Name and address changes.** (a) A person who is licensed, registered, or exempt under AS 06.60 shall maintain a current, valid, mailing address on file with the department at all times. The department will use the latest mailing address on file with the department for official communications, notifications, and service of legal process.

(b) A person who is licensed, registered, or exempt under AS 06.60 must notify the department, in writing, of a change of mailing address.

(c) If a person who is licensed, registered, or exempt under AS 06.60 changes its name, the person shall submit to the division within 30 days of the change of name

(1) notification of the change of name, on a form provided by the department that has been completed by the licensee and notarized;

(2) a copy of the marriage certificate, court document, or other legal document, if applicable, verifying the change of name; and

(3) the required administrative fee for a name change.

(d) The division will issue a new license, registration, or exemption showing the change of name if a licensee meets the requirements in (c) of this section. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.910

**3 AAC 14.820. Administrative fees.** The following nonrefundable fees are established for services provided under AS 06.60 or this chapter:

(1) registration fee to obtain an exemption under AS 06.60.015 for a person who operates as a mortgage lender or mortgage broker, \$100;

(2) late filing fee for renewal application for registration, exemption, or license, \$50 if within seven days after the deadline for filing the renewal application and \$10 for each day thereafter, until the renewal application is filed;

(3) application for inactive license, \$50, plus investigative expenses;

(4) application for reactivation of an inactive license \$50, plus investigative expenses;

(5) application for transfer or assignment of mortgage licensee's business, \$500, plus investigative expenses;

(6) application for change in control of mortgage licensee, \$500, plus investigative expenses;

(7) application to open branch office, \$250, plus investigative expenses;

(8) application for closure of principal office of mortgage licensee, \$250, plus investigative expenses;

(9) application for closure of branch office, \$125, plus investigative expenses;

(10) duplicate license fee, \$25;

(11) fee for verification or certification of an Alaska license, registration, or exemption, \$50;

(12) name change, \$25;

(13) photocopy fee, \$.30 per page, which may be waived by the department if the total fee is less than \$5;

(14) facsimile fee, \$1 per page, which may be waived by the department if the total fee is less than \$5; and

(15) returned check fee, \$30. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 06.60.017 AS 06.60.910

**Article 10. Definitions.**

**Section**

990. Definitions

**3 AAC 14.990. Definitions.** (a) Terms defined in AS 06.60 and used in this chapter shall have the same meaning as set forth in AS 06.60, unless the context requires otherwise.

(b) In this chapter, unless the context requires otherwise,

(1) “Act” means AS 06.60, known as the Mortgage Lending Regulation Act, as amended from time to time;

(2) “certified testing authority” means an organization certified by the department to provide testing materials and to administer tests for either initial and/or continuing education for persons who intend to operate or who are operating as originators under AS 06.60;

(3) “material litigation” means any past or pending litigation including but not limited to the following:

(A) any court order limiting the applicant’s right to conduct a business;

(B) any administrative order issued within the prior seven years limiting the applicant’s right to conduct a business;

(C) any conviction within the prior seven years, including a conviction based on a plea of guilty, no contest, or nolo contendere, of a misdemeanor involving fraud, misrepresentation, or dishonesty, or any felony;

(D) a final ruling within the prior seven years issued by a court or administrative agency indicating that the applicant has committed an act, made an omission, or engaged in an practice that constitutes a breach of a fiduciary duty; the applicant shall disclose any other instance within the seven-year period where he or she has committed an act, made an omission, or engaged in a practice that constitutes a breach of a fiduciary duty;

(E) any pending misdemeanor charge involving fraud, misrepresentation, or dishonesty or any pending felony charge;

(F) any civil actions filed within the prior seven years, including civil suits, administrative actions, or arbitration proceedings that concerned allegations of financial fraud or misconduct and claimed compensatory damages of \$100,000 or more;

(G) any pending civil actions, including civil suits, administrative actions, or arbitration proceedings which concern allegations of financial fraud or misconduct and claim compensatory damages of \$100,000 or more; and

(H) any filing for bankruptcy in a U. S. Bankruptcy Court or a declaration of bankruptcy within the prior seven years.

(4) “private delivery service” means a business that delivers letters and packages for a fee;

(5) “registrant” means a registered small mortgage lender or a registered small mortgage originator under AS 06.60.017 or a registered exempt person under AS 06.60.015;

(6) “small mortgage originator” means an originator who is an employee of, or works under exclusive contract for, a small mortgage lender;

(c) In AS 06.60 and this chapter, unless the context requires otherwise,

(1) “advertising” means making or permitting to be made any oral, written, graphic or pictorial statements, in any manner, whether in print, aurally, or by electronic means, in the course of the solicitation of business;

(2) “branch office” means a location separate from the principal place of business of the mortgage licensee where one or more persons are authorized to act on behalf of a mortgage licensee to perform duties regulated under the Act;

(3) “change in control” means a change in the identity of the person or persons holding a majority ownership interest in the mortgage licensee;

(4) “closing” means the process of executing legally binding documents regarding a lien on property that is subject to a mortgage loan;

(5) “commissioner” means the commissioner of the department or a designee of the commissioner;

(6) “employee” means an individual who has an employment relationship that meets the following conditions:

(A) the employee receives payment or is paid in a manner that provides payroll deductions for Federal Unemployment Tax and Federal Insurance Contributions Act and withholding of other federal and state taxes by the employer;

(B) the employer has the right to hire and terminate the employee and hire and terminate the employee’s assistants;

(C) the employer provides the methods and procedures for performing the employee’s services; and

(D) the employer supervises the employee in the conduct of the employee’s job and supervises the employee’s compliance with applicable law and rules;

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(7) “principal place of business” means a location where an owner, officer, senior manager, or other control person conducts the business of the mortgage licensee and maintains the books and records of the mortgage licensee. (Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 06.60.017 AS 06.60.910