

**DEPARTMENT OF REGULATORY AGENCIES**

**DIVISION OF REAL ESTATE**

**MORTGAGE LOAN ORIGINATORS**

**4 CCR 725 -3**

**NOTICE OF PROPOSED RULEMAKING HEARING**

**August 4, 2009**

**1-4-1 LICENSING EDUCATION, EXAMINATION AND CONTINUING  
EDUCATION REQUIREMENTS**

- Section 1. Authority
- Section 2. Scope and Purpose
- Section 3. Applicability
- Section 4. 1-4-1 Licensing Education, Examination and Continuing Education Requirements
- Section 5. Continuing Education

**Section 1. Authority**

The Director of the Division of Real Estate updates the following permanent rule entitled, **1-4-1 Licensing Education, Examination and Continuing Education Requirements**, according to her authority as found in §§ 12-61-903(3), 12-61-903(8), 12-61-910.3, and 24-4-103, C.R.S.

**Section 2. Scope and Purpose**

Pursuant to § 12-61-903(3)(a), mortgage loan originators must complete at least nine hours of fundamental mortgage lending coursework and satisfactorily complete a corresponding written examination. The Director shall approve the fundamental mortgage lending coursework and the written examination.

Additionally, in July of 2008, the Housing and Economic Recovery Act of 2008 was signed into law. Title V of the Economic Recovery Act of 2008 is the S.A.F.E. Mortgage Licensing Act. The S.A.F.E. Mortgage Licensing Act defines minimum national licensing standards for mortgage loan originators and requires states to adopt such provisions. The S.A.F.E. Mortgage Licensing Act requires that pre-licensing education and testing be developed and administered by the Nationwide Mortgage Licensing System and Registry. As a result, the education and testing requirements need to be updated in order to conform to provisions defined in the S.A.F.E. Mortgage Licensing Act, House Bill 09-1085 and with standards established by the Nationwide Mortgage Licensing System and Registry. Furthermore, this rule is imperative as it details how existing licensees may become compliant and how new applicants will be affected.

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The purpose of this rule is to clarify the education requirements for individuals required to be licensed as state-licensed loan originators. The purpose is also to ensure compliance with education standards. It is vital to consumer protection and to competent mortgage loan originator practice that mortgage loan originators understand applicable State and Federal Law.

**Section 3. Applicability**

This rule applies to mortgage loan originators as that term is defined in § 12-61-902(6), C.R.S. and includes those persons who originate a mortgage, offer to originate a mortgage, act as a mortgage loan originator, or offer to act as a mortgage loan originator. This rule applies to all individuals required to be licensed pursuant to §§ 12-61-902 and 12-61-903, C.R.S.

**Section 4. 1-1-4 Licensing Education, Examination and Continuing Education Requirements**

1. Applicant and Licensee Education Requirements

- (a) All mortgage loan originators who obtain a Colorado mortgage loan originator license prior to January 1, 2009 must complete the Director developed and approved 40 hours of licensing education and pass a two-part written licensing examination by January 1, 2009. Individuals who fail to comply with this requirement may file for an extension. Extensions may be granted through and including March 31, 2009 and shall only be applied for beginning December 1, 2008 and ending January 30, 2009. Mortgage loan originators requesting an education extension shall:
  - i. Complete the education extension form created by the Director of the Division of Real Estate. This form may be found on the Division of Real Estate’s website at <http://www.dora.state.co.us/real-estate/mortgage/MBForms.htm>;
  - ii. Pay a \$100.00 extension fee by money order or a cashier check;
  - iii. Request that the Director inactivate their mortgage loan originator license if they fail to pass the written examination in accordance with this rule by March 31, 2009, such inactive status remaining in effect until passage of the mortgage loan originator examination and subsequent request for activation; and
  - iv. Provide the Director with an original copy of the requisite surety bond, with the accompanying power of attorney and proof of the requisite errors and omissions insurance.

- (b) Individuals who fail to pass the requisite written examination by January 1, 2009 and who fail to comply with the extension process defined in this rule are subject to all forms of discipline authorized by the Mortgage Loan Originator Licensing Act. Additionally, the license renewal, reinstatement or reactivation fees for such individuals will automatically be increased by \$500.00, due to the related increase in administrative burden.
- (c) The Director has created the Mortgage Loan Originator Education Extension Form. This form may be found on the Division of Real Estate's website at <http://www.dora.state.co.us/real-estate/mortgage/MBForms.htm>.
- (d) On or after January 1, 2009 and prior to January 1, 2010, each individual applicant for initial licensing as a mortgage loan originator must complete, within the three years immediately preceding the date of the application, 40 hours of licensing education and pass a two-part exam approved by the Director of the Division of Real Estate prior to applying for a mortgage loan originator license.
- (e) Additionally, in order to register on the Nationwide Mortgage Licensing System and Registry and in order to be licensed as a state-licensed loan originator, all individuals licensed prior to January 1, 2010, in addition the requirements defined in section 4(1)(d) of this regulation, shall pass the national portion of the two part S.A.F.E. Mortgage Loan Originator exam developed and administered by the Nationwide Mortgage Licensing System and Registry or by a company contracted by the Nationwide Mortgage Licensing System and Registry to develop and administer the two part S.A.F.E. Mortgage Loan Originator exam.
- (f) On or after January 1, 2010, each individual applicant shall complete, within the three years immediately preceding the date of the applications, the 20 hours of pre-licensing education requirements developed, administered and approved by the Nationwide Mortgage Licensing System and Registry or by a company contracted by the Nationwide Mortgage Licensing System and Registry to develop, administer and approve the 20 hours of pre-licensing education and pass the two-part S.A.F.E. Mortgage Loan Originator exam also developed and administered by the Nationwide Mortgage Licensing System and Registry or by a company contracted by the Nationwide Mortgage Licensing System and Registry to develop and administer the S.A.F.E. Mortgage Loan Originator exam prior to completing the applications for a state-licensed loan originator license.

## 2. Certificate of Completion

- (a) Mortgage loan originator applicants and licensees must receive a certification of completion from their education provider evidencing the successful

completion of the respective licensing education coursework before scheduling any of the requisite examinations.

- (b) Prior to January 1, 2010, mortgage loan originator applicants and licensees must ensure that their education provider files a certificate of completion with the examination provider establishing the successful completion of the respective licensing education coursework before scheduling the exam. The education provider must file the certificate of completion with the approved examination provider electronically or in such manner as prescribed by the Director.

### 3. Licensing Education Passing Score

- (a) Prior to January 1, 2010, the mortgage loan originator written licensing examination consists of two parts. The two parts include the Federal, State and Consumer Protection Laws portion and the Mortgage Lending Basics and Ethics portion. On and after January 1, 2009 and prior to January 1, 2010, an individual shall not be considered to have passed the written test unless the individual achieves a test score of not less than seventy-five (75) percent correct answers on both the Federal and State Law portion of the exam and the Mortgage Lending Basics portion of the exam. If the applicant fails one of the two parts, the applicant may reschedule with the examination provider to retake only the portion of the exam that they failed. In no event is a passing score accepted beyond one year (365 days) from the date of the passing score.
- (b) On or after January 1, 2010, the S.A.F.E. Mortgage Loan Originator examination developed and administered by the Nationwide Mortgage Licensing System and Registry or by a company contracted by the Nationwide Mortgage Licensing System and Registry to develop and administer the S.A.F.E. Mortgage Loan Originator examination consists of two parts. These two parts include a national component and a Colorado state specific component. On and after January 1, 2010, an individual shall pass the test in accordance with policies and procedures developed and administered by the Nationwide Mortgage Licensing System and Registry and in compliance with the S.A.F.E. Mortgage Licensing Act.

### 4. Qualifying Schools

- (a) Prior to January 1, 2010, applicants and licensees must complete the requisite 40 hours of licensing education, approved by the Director, from any accredited degree-granting college or university or any private occupational school that has a certificate of approval from the Division of Private Occupational Schools in accordance with the provisions of article 59 of title 12, Colorado Revised Statutes.

- (b) On or after January 1, 2010, applicants must complete the requisite 20 hours of licensing education from an educational provider approved by the Nationwide Mortgage Licensing System and Registry or by a company contracted by the Nationwide Mortgage Licensing System and Registry to approve educational providers.

#### 5. Forty Hour Licensing Education Requirement

- (a) Prior to January 1, 2010, mortgage loan originator applicants and licensees must successfully complete the required forty hours of licensing education through classroom instruction or an equivalent distance learning course offered in a manner as prescribed by the Director. For the purposes of this rule, distance learning shall not be construed to include home or correspondent education. Rather, equivalent distant or distance learning courses shall only include online courses that ensure through security features and functionality that an individual has spent the same amount of time on the online course as they would in a traditional classroom setting. Pursuant to the requirements in Part 1 of this rule, the following licensing education must be successfully completed prior to taking the examination and applying for a license:
  - i. A minimum of 19.5 hours in Federal and State Law;
  - ii. A minimum of 16 hours in Mortgage 101; and
  - iii. A minimum of 4.5 hours in Business and Trade Practices

#### 6. Exemption Qualifications

- (a) Prior to January 1, 2010, as prescribed by the Director or person(s) authorized by the Director, qualifying mortgage loan originator applicants who meet the following criteria are exempt from having to complete the Mortgage Lending Basics and Ethics portion of the education coursework and respective examination. To qualify for the exemption, mortgage loan originators must meet all five requirements. They are as follows:
  - i. Currently maintain a Colorado mortgage loan originator license.
  - ii. Maintain a membership with a mortgage loan originator association approved for exemption by the Division of Real Estate.
  - iii. Maintain a mortgage loan originator association designation that is current and in good standing.
  - iv. Provide the association's letter of certification to the education course provider prior to completing coursework.
  - v. Provide the association's letter of certification to an independent testing service contracted with by the Director, prior to taking the Federal and State Law exam.

- (b) Prior to January 1, 2010, those who meet the criteria for exemption must complete the Federal and State Law portion of the licensing coursework and pass the Federal and State Law portion of the exam with a score of 75 percent or higher.

7. Authority to Audit Education Provider

- (a) The Director or a Director's designee may audit courses and may request from each education provider and schools offering the approved mortgage loan originator courses pursuant to requirements in part 5 of this rule, all related instructional materials, student attendance records and other information that may be necessary for an audit. The purpose of the audit is to ensure that education providers and schools adhere to the approved course of study, offer course material and instructions consistent with acceptable education standards and instruct in such a manner that the desired learning objectives are met. Failure to comply with this rule may result in the withdrawal of course approval.

8. Retesting

- (a) An individual may retake a test three (3) consecutive times with each consecutive taking occurring at least 30 days after the preceding test.
- (b) After failing three (3) consecutive tests, an individual shall wait at least six (6) months before taking the test again.
- (c) Individuals who fail to maintain a valid license for a period of five (5) years or longer shall retake the test, not taking into account any time during which such individual was licensed.

**Section 5. Continuing Education**

1. Individuals licensed prior to January 1, 2009, shall complete at least 8 hours of continuing education courses reviewed and approved by the Nationwide Mortgage Licensing System and Registry or by a company contracted to review and approve continuing education courses and a two hour annual Colorado specific state update course reviewed and approved by the Division of Real Estate each calendar year and prior to the renewal of their license.
2. The continuing education requirements for individuals licensed prior to January 1, 2009, shall begin after their first license renewal. Passage of the national portion of the S.A.F.E. Mortgage Loan Originator examination developed and administered by the Nationwide Mortgage Licensing System and Registry or by a company contracted by the Nationwide Mortgage Licensing System and Registry to develop and administer the national portion of the S.A.F.E. Mortgage Loan Originator examination shall satisfy one year of continuing education requirements if continuing education is required in the year in which the individual has passed the national

portion of the S.A.F.E. Mortgage Loan Originator exam as determined by the Nationwide Mortgage Licensing System and Registry.

3. Individuals licensed on or after January 1, 2009, shall complete at least 8 hours of continuing education courses reviewed and approved by the Nationwide Mortgage Licensing System and Registry or by a company contracted to review and approve continuing education courses and a two hour annual Colorado specific state update course reviewed and approved by the Division of Real Estate each calendar year and prior to the renewal of their license.
4. The continuing education requirements for individuals licensed on or after January 1, 2009, shall begin after issuance of the initial license. Passage of the national portion of the S.A.F.E. Mortgage Loan Originator examination developed and administered by the Nationwide Mortgage Licensing System and Registry or by a company contracted by the Nationwide Mortgage Licensing System and Registry to develop and administer the national portion of the S.A.F.E. Mortgage Loan Originator examination shall satisfy one year of continuing education if continuing education is required in the year in which the individual has passed the national portion of the test as determined by the Nationwide Mortgage Licensing System and Registry.

**A hearing on the above subject matter will be held on Tuesday, August 4, 2009, at the Colorado Division of Real Estate, 1560 Broadway, Suite 925, Denver, Colorado 80202 beginning at 2:30 p.m.**

Any interested person may participate in the rulemaking through submission of written data arguments to the Division of Real Estate. Persons are requested to submit data, views and arguments to the Division of Real Estate in writing no less than ten (10) days prior to the hearing date and time set forth above. All submissions will be considered.

Please be advised that the rule being considered is subject to further changes and modifications after public comment and formal hearing.