

DEPARTMENT OF REGULATORY AGENCIES

DIVISION OF REAL ESTATE

MORTGAGE LOAN ORIGINATORS

PERMANENT RULE

4CCR 725 -3

NOTICE OF PROPOSED RULEMAKING HEARING

March 21, 2012

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

- Section 1. Authority
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Section 1. Authority

The Board of Mortgage Loan Originators updates the following permanent rule entitled, **1-4-1 Licensing Education, Examination and Continuing Education Requirements**, according to the authority prescribed 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

The purpose of this rule is to clarify the education requirements for mortgage loan originators to first obtain their state license and then maintain that license by completing continuing education requirements. It is vital to consumer protection and to a competent mortgage loan originator practice that mortgage loan originators understand applicable State and Federal laws. Please contact the Division of Real Estate if you have any questions.

Pursuant to § 12-61-903(3)(a), C.R.S. mortgage loan originators must complete at least nine (9) hours of fundamental mortgage lending coursework and satisfactorily complete a corresponding written examination.

Additionally, in July of 2008, the Housing and Economic Recovery Act of 2008 was signed into law. Title V of the Housing and 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, Colorado's education and testing requirements were 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. Consequently, this rule outlines how existing licensees may become compliant and how new applicants will be affected.

Section 3. Applicability

This rule applies to all individuals required to be licensed pursuant to §§ 12-61-902 and 12-61-903, C.R.S.

Section 4. 1-4-1 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 forty (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. 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. A licensee's inactive status will remain in effect until passage of the mortgage loan originator examination and subsequent request for activation;
 - iv. Provide the Director with an original copy of the requisite surety bond, a power of attorney and proof of 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, forty (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) For individuals licensed prior to January 1, 2010, in addition to the requirements outlined in section 4(1)(d) of this rule, you must register on the Nationwide Mortgage Licensing System and Registry and as a state-licensed loan originator. In order to do so, you must apply to Colorado through the Nationwide Mortgage Licensing System and Registry by December 17, 2010, pay the certification invoice issued by the Nationwide Mortgage Licensing System and Registry by December 31, 2010, and 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 their application, the twenty (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 twenty (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 consisted of two parts. The two parts consisted of the Federal, State and Consumer Protection Laws portion and the Mortgage Lending Basics and Ethics portion. On or 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 failed one of the two parts, the applicant could 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 examination will consist of two parts. These two parts include a national component and a Colorado state specific component. On or 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 forty (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 (40) 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 portions 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 seventy-five (75) percent or higher.

7. Authority to Audit Education Provider

- (a) The Board or the Board's designee may audit any mortgage loan originator courses offered and may request from each education provider or schools offering such courses, 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 thirty (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 prior to re-application, not taking into account any time during which such individual was licensed.

Section 5. Continuing Education

1. The continuing education requirements for individuals licensed prior to January 1, 2009, shall begin after their first license renewal. Individuals licensed prior to January 1, 2009, shall complete at least eight (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 subsequent license and registration renewals or reinstatements.

- (a) 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.

2. The continuing education requirements for individuals licensed on or after January 1, 2009, shall begin after issuance of the initial license. Individuals licensed on or after January 1, 2009, shall complete at least eight (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 license and registration renewals.

- (a) 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.

3. For more information regarding the continuing education requirements, please review the Division of Real Estate website at <http://www.dora.state.co.us/real-estate/mortgagebrokerregistration.htm>.
4. The Colorado Division of Real Estate will maintain a list of course providers approved to teach the Colorado two (2) hour annual update course on the Division website so interested parties may research and learn where the course is offered.
5. Licensee requirements:
 - (a) All individuals required to be licensed as state-licensed mortgage loan originators and required to complete the Colorado two (2) hour annual update course shall maintain records of completion for a period of four (4) years.
6. Colorado two (2) hour annual update course provider requirements:
 - (a) In order to provide and teach the Colorado two (2) hour annual update course, educators and trainers not exempt from the Colorado Division of Private Occupational Schools oversight, pursuant to 12-59-101, et seq., C.R.S., must be approved by the Colorado Division of Private Occupational Schools and approved by an authorized representative of the Board of Mortgage Loan Originators.
 - (b) In order to provide and teach the Colorado two (2) hour annual update course, educators and trainers exempt from the Colorado Division of Private Occupational Schools oversight, pursuant to section 12-59-104, C.R.S., must be approved by an authorized representative of the Board of Mortgage Loan Originators.
 - (c) If not approved by the Colorado Division of Private Occupational Schools, the trainer shall attend one train-the-trainer class, as developed and administered by the Colorado Division of Real Estate, prior to teaching the Colorado two (2) hour annual update course.
 - (d) All education providers and trainers interested in teaching the Colorado two (2) hour annual update course shall apply each calendar year with the Colorado Division of Real Estate for approval in a manner prescribed by the Board of Mortgage Loan Originators; prior to teaching the course material. Educators and trainers that are exempt from the Division of Private Occupational Schools' oversight shall provide proof of such exemption.
 - (e) All education providers and trainers interested in teaching the Colorado two (2) hour annual update course shall keep records of all individuals that have completed the Colorado two (2) hour annual update course and shall provide the Colorado Division of Real Estate with a quarterly list of such individuals by April 15 of each calendar year, July 15 of each calendar year, October 15 of each calendar year, January 15th of each calendar year, and in a manner prescribed by the Board of Mortgage Loan Originators. Educators are required to keep records of course attendance for a period of four (4) years.
 - (f) All education providers shall provide the course material, **in a manner prescribed by the Board of Mortgage Loan Originators**, and applicable handouts to all students that have enrolled and completed the Colorado two (2) hour annual update course.
 - (g) All education providers and trainers shall provide a certificate of completion to all individuals that have completed the Colorado two (2) hour annual update course.

A hearing on the above subject matter will be held on Wednesday, March 21, 2012, at the Colorado Division of Real Estate, 1560 Broadway, Suite 1250C, Denver, Colorado 80202 beginning at 9:00 a.m.

Any interested person may participate in the rule making through submission of written data, views and 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. However, all data, views and arguments submitted prior to or at the rulemaking hearing or prior to the closure of the rulemaking record (if different from the date and time of hearing), shall be considered.

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