

Montana Mortgage Broker and Loan Originator Licensing Act

32-9-102. License requirement. A person or entity may not act as a residential mortgage broker or loan originator after September 1, 2004, unless licensed under the provisions of this part. 32-9-108.

Overall licensing requirements. All persons and entities desiring to conduct business as a mortgage broker or to work as a loan originator shall apply to the department for a license and pay a license fee under the provisions of this part on or after July 1, 2004.

Definitions: (10) "Mortgage broker" means a person or entity that provides services for a fee as an intermediary between a borrower and a lender in obtaining financing for the borrower that is to be secured by a residential dwelling for between one and four families located on real property purchased by the borrower with the loan provided by the lender. (7) "Loan originator" means a licensed individual employed by a mortgage broker to assist borrowers by originating a residential loan. (11) "Originate" means: (a) to negotiate or arrange or to offer to negotiate or arrange a mortgage loan between a borrower and a person or entity that makes or funds mortgage loans; (b) to issue a commitment for a mortgage loan to a borrower; or (c) to place, assist in placing, or find a mortgage loan for a borrower. .

32-9-104. Exemptions. The provisions of this part do not apply to: (5) a mortgage banker, except that a mortgage banker that also provides services as a mortgage broker for more than four mortgage loans in a calendar year must be licensed as a mortgage broker with respect to those mortgage broker services. (9) "Mortgage banker" means a person or entity that makes, services, or buys and sells mortgage loans and that may be required to submit audited financial

statements to the United States department of housing and urban development, the United States department of veterans affairs, the federal national mortgage association, the federal home loan mortgage corporation, or the government national mortgage association.

32-9-109. Experience requirements. (1) Except as provided in 32-9-111: (a) an individual applying for a license as a mortgage broker must have a minimum of 3 years of experience working as a loan originator or in a related field; and (b) an individual applying for a license as a loan originator must have a minimum of 6 months of experience working in a related field.

32-9-110. Examination requirements. (1) Except as provided in 32-9-111, all individuals seeking a mortgage broker's license and individuals seeking a loan originator's license shall submit to an examination provided for by the department.

32-9-111. Exception to experience and examination requirements. A person providing services as a mortgage broker or an individual acting as a loan originator on or before December 31, 2002, must be licensed by the department in the same capacity as that person was operating on or before December 31, 2002. On or after July 1, 2004, the person or individual shall apply to the department for the appropriate license, pay the required fees, and have the application approved by the department. A person or individual entitled to licensure under this section is not subject to the experience requirements of 32-9-109 or the examination requirements of 32-9-110.

32-9-121. In-state office requirement -- records maintenance -- advertising requirement. (1) A person or entity licensed as a mortgage broker shall maintain at least one physical office located in this state either on its own accord or in conjunction with another licensed mortgage broker or regulated lender located in this state.

Licenseses shall maintain copies of residential mortgage loan files and trust account records at the Montana office location where services are provided. Each office location must have at least one phone line. Licenseses shall pay state income tax on all income earned in Montana.

32-9-122. Requirement for designated manager. (1) A mortgage broker that is not a sole proprietorship shall designate to the department a licensed mortgage broker within its organization as the designated manager of the organization. (4) "Designated manager" means a person employed by a mortgage broker entity, other than a sole proprietorship, as the person responsible for operating the business at the location where the person is employed. A designated manager must be licensed as a mortgage broker

32-9-123. Irrevocable letter of credit or surety bond -- notice of legal action. (1) Each licensee other than a loan originator shall maintain at all times an irrevocable letter of credit or surety bond, naming the department as a beneficiary, in the amount of \$25,000 for each location identified in the application for licensure.

32-9-125. Trust accounts -- fees other than bona fide third-party fees. (1) Every mortgage broker doing business in this state shall: (a) maintain a trust account at a financial institution located in this state whose deposits or shares are insured, and the trust account funds may not be commingled with any other funds of the mortgage broker; (b) deposit into the trust account any bona fide third-party fee that the mortgage broker receives unless the borrower pays the bona fide third party directly; and (c) pay third-party fees to a bona fide third party from the mortgage broker's trust account unless the borrower pays the bona fide third party directly.