

MORTGAGE LOAN ORIGINATOR LICENSING ACT (EXCERPT)
Act 75 of 2009

493.133 Definitions.

Sec. 3.

As used in this act:

- (a) "Commissioner" means the director.
- (b) "Department" means the department of insurance and financial services.
- (c) "Depository institution" means that term as defined in section 3 of the federal deposit insurance act, 12 USC 1813, or a credit union.
- (d) "Director" means the director of the department or his or her designee.
- (e) "Dwelling" means that term as defined in section 103 of the truth in lending act, 15 USC 1602.
- (f) "Employee" means an individual who meets both of the following:
 - (i) Has an employment relationship acknowledged by that individual and the person that engages that individual to originate mortgage loans.
 - (ii) Is treated as an employee by the person that engages that individual to originate mortgage loans for compliance with federal income tax laws.
- (g) "Exempt company" means a person that meets all of the following:
 - (i) Is not required to obtain a license or registration, or is exempt from licensing or registration, under the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684, the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81, or the consumer financial services act, 1988 PA 161, MCL 487.2051 to 487.2072.
 - (ii) Has a unique identifier in the nationwide mortgage licensing system and registry.
 - (iii) Has been approved by the director in the nationwide mortgage licensing system and registry as an exempt company.
- (h) "Federal banking agencies" means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the director of the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Deposit Insurance Corporation.
- (i) "Financial licensing acts" means that term as defined in section 2 of the consumer financial services act, 1988 PA 161, MCL 487.2052.
- (j) "Immediate family member" means a spouse, child, sibling, parent, grandparent, or grandchild. The term includes stepparents, stepchildren, stepsiblings, and adoptive relationships.
- (k) "Individual" means a natural person.
- (l) "Licensed mortgage loan originator" means a mortgage loan originator who holds a valid license issued by the director under this act.
- (m) "Loan processor or underwriter" means an individual who performs clerical or support duties as an employee at the direction of and subject to the supervision and instruction of a person licensed or designated as exempt from licensing under the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684, the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81, or the consumer financial services act, 1988 PA 161, MCL 487.2051 to 487.2072. For purposes of this subdivision, "clerical or support duties" may include any of the following after an application is received:
 - (i) The receipt, collection, distribution, and analysis of information common for the processing or underwriting of a residential mortgage loan.
 - (ii) Communicating with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that the communication does not include offering or negotiating loan rates or terms, or counseling consumers about residential mortgage loan rates or terms.
- (n) "Mortgage loan originator" means an individual who originates residential mortgage loans and meets all of the following:
 - (i) Is not an individual engaged solely as a loan processor or underwriter except as otherwise provided in section 5(3).
 - (ii) Is not a person that only performs real estate brokerage activities and is licensed or registered under the laws of this state, unless the person is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of a lender, mortgage broker, or other mortgage loan originator.
 - (iii) Is not a person solely involved in extensions of credit relating to timeshare plans, as that term is defined in 11 USC 101(53D).
- (o) "Mortgage servicer" means a person that directly or indirectly services or offers to service residential mortgage loans.
- (p) "Nationwide mortgage licensing system and registry" means a mortgage licensing system developed and

maintained by the conference of state bank supervisors and the American association of residential mortgage regulators for the licensing and registration of licensed mortgage loan originators.

(q) "Nontraditional mortgage product" means any mortgage product other than a 30-year fixed rate mortgage.

(r) "Office of financial and insurance regulation" means the department.

(s) "Originate" means to do any of the following for compensation or gain, or in the expectation of compensation or gain, in connection with a residential mortgage loan:

(i) Take a residential mortgage loan application.

(ii) Offer or negotiate terms of a residential mortgage loan.

(t) "Person" means an individual, corporation, limited liability company, partnership, association, or other legal entity.

(u) "Real estate brokerage activity" means an activity that involves offering or providing real estate brokerage services to the public, including, but not limited to, any of the following:

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

(ii) Bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property.

(iii) On behalf of any party, negotiating any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property, other than in connection with providing financing with respect to that contract.

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

(v) Offering to engage in any activity, or act in any capacity, described in subparagraph (i), (ii), (iii), or (iv).

(v) "Registered mortgage loan originator" means an individual who meets all of the following:

(i) Is a mortgage loan originator and is an employee of any of the following:

(A) A depository institution.

(B) A subsidiary of a depository institution that is owned and controlled by that depository institution and is regulated by a federal banking agency.

(C) An institution regulated by the farm credit administration.

(ii) Is registered with, and maintains a unique identifier through, the nationwide mortgage licensing system and registry.

(w) "Residential mortgage loan" means a loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or residential real estate on which a person has constructed or intends to construct a dwelling.

(x) "Residential real estate" means any real property located in this state on which a person has constructed or intends to construct a dwelling.

(y) "SAFE act" means the secure and fair enforcement for mortgage licensing act of 2008, 12 USC 5101 to 5117.

(z) "Service" means the collection or remittance for a lender, noteowner, or noteholder or a person's own account of 4 or more installment payments of the principal of, interest of, or an amount placed in escrow under a residential mortgage loan, mortgage servicing agreement, or an agreement with a mortgagor.

(aa) "Sponsor" means a person that meets all of the following:

(i) Has a unique identifier in the nationwide mortgage licensing system and registry.

(ii) Is approved by the director in the nationwide mortgage licensing system and registry as an exempt company or as a person licensed or registered under the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684, the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81, or the consumer financial services act, 1988 PA 161, MCL 487.2051 to 487.2072.

(iii) Has indicated in the nationwide mortgage licensing system and registry that an individual will act as a mortgage loan originator for that person under that person's specific license, registration, or status as an exempt company.

(bb) "Unique identifier" means a number or other identifier assigned by protocols established by the nationwide mortgage licensing system and registry.

History: 2009, Act 75, Eff. July 31, 2009 ;-- Am. 2010, Act 356, Imd. Eff. Dec. 22, 2010 ;-- Am. 2012, Act 150, Imd. Eff. May 30, 2012 ;-- Am. 2019, Act 141, Imd. Eff. Dec. 5, 2019

Compiler's Notes: For references to office of financial and insurance regulation to be deemed as department of insurance and financial services, and abolishment of office of financial and insurance regulation, see E.R.O. No. 2013-1, compiled at MCL 550.991. For references to commissioner of office of financial and insurance regulation to be deemed as references to director of department of insurance and financial services, and abolishment of office of commissioner of office of financial and insurance regulation, see E.R.O. No. 2013-1, compiled at MCL 550.991.