WEST VIRGINIA CODE: §31-17-4

§31-17-4. Applications for licenses; requirements; bonds; fees; renewals; waivers and reductions; per loan fee.

(a) In connection with an application for licensing as a mortgage lender or mortgage broker, the applicant shall, at a minimum, furnish to the Nationwide Multistate Licensing System and Registry information concerning the applicant's identity, including:

(1) Fingerprints for submission to the Federal Bureau of Investigation and any governmental agency or entity authorized to receive such information for a state, national, and international criminal history background check; and

(2) Personal history and experience in a form prescribed by the Nationwide Multistate Licensing System and Registry and the commissioner, including the submission of authorization for the Nationwide Multistate Licensing System and Registry and the commissioner to obtain:

(A) An independent credit report obtained from a consumer reporting agency described in Section 603(p) of the Fair Credit Reporting Act; and

(B) Information related to any administrative, civil, or criminal findings by any governmental jurisdiction.

(b) In order to reduce the points of contact which the Federal Bureau of Investigation may have to maintain for purposes of this article, the commissioner may use the Nationwide Multistate Licensing System and Registry or its designated vendor as a channeling agent for requesting information from, and distributing information to, the Department of Justice or any governmental agency.

(c) In order to reduce the points of contact which the commissioner may have to maintain, for purposes of this article, the commissioner may use the Nationwide Multistate Licensing System and Registry as a channeling agent for requesting and distributing information to and from any source so directed by the commissioner.

(d) Application for a lender's or broker's license shall each year be submitted under oath, in the form prescribed by the commissioner. Background and credit checks shall be conducted in accordance with this article. Any application shall also disclose the location at which the business of lender or broker is to be conducted.

(e) At the time of making application for a lender's license, the applicant therefor shall:

(1) If a foreign corporation, submit a certificate from the Secretary of State certifying that the applicant is registered with the Secretary of State to transact business in this state;

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(2) Submit proof that he or she has available for the operation of the business at the location specified in the application, tangible net worth of at least $250,000 computed according to the United States generally accepted accounting principles as shown by the most recent audited financial statement;

(3) File an electronic surety bond through the Nationwide Multistate Licensing System and Registry in favor of the state for the benefit of consumers, or for a claim by the commissioner for an unpaid civil administrative penalty, or an unpaid examination invoice in the amount of $100,000 for licensees with West Virginia annual loan originations of $0 to $3 million, $150,000 for West Virginia annual loan originations greater than $3 million and up to $10 million, and $250,000 for West Virginia annual loan originations over $10 million, in a form and with conditions as the commissioner may prescribe, and executed by a surety company authorized to do business in this state: *Provided*, That lender licensees who service West Virginia mortgage loans shall file with the commissioner a bond under the same conditions listed above in the amount of $200,000;

(4) Pay to the commissioner a license fee of $1,250 plus the actual cost of fingerprint processing and the processing fees assessed by the Nationwide Multistate Licensing System and Registry. If the commissioner shall determine that an investigation outside this state is required to ascertain facts or information relative to the applicant or information set forth in the application, the applicant may be required to advance sufficient funds to pay the estimated cost of the investigation. An itemized statement of the actual cost of the investigation outside this state shall be furnished to the applicant by the commissioner and the applicant shall pay, or shall have returned to him or her, as the case may be, the difference between his or her payment in advance of the estimated cost and the actual cost of the investigation; and

(5) Submit a full and complete disclosure of any litigation or unresolved complaint filed by a governmental authority or class action lawsuit on behalf of consumers relating to the operation of the license applicant.

(f) At the time of making application for a broker's license, the applicant therefor shall:

(1) If a foreign corporation, submit a certificate from the Secretary of State certifying that the applicant is registered with the Secretary of State to transact business in this state;

(2) Submit proof that he or she has available for the operation of the business at the location specified in the application, tangible net worth of at least $10,000 computed according to the United States generally accepted accounting principles as shown by the most recent compiled, reviewed, or audited financial statement;

(3) File an electronic surety bond through the Nationwide Multistate Licensing System and Registry in favor of the state for the benefit of consumers, or for a claim by the commissioner for an unpaid civil administrative penalty or an unpaid examination invoice in the amount of $50,000 for licensees with West Virginia loan originations of $0 to $3 million,

$75,000 for West Virginia loan originations greater than $3 million and up to $10 million, and $100,000 for West Virginia loan originations over $10 million in a form and with conditions as the commissioner may prescribe, and executed by a surety company authorized to do business in this state: *Provided*, That the bond must be in the amount of $150,000 before a broker may participate in a table-funded residential mortgage loan;

(4) Pay to the commissioner a license fee of $350 plus the actual cost of fingerprint processing and the processing fees assessed by the Nationwide Multistate Licensing System and Registry; and

(5) Submit a full and complete disclosure of any litigation or unresolved complaint filed by a governmental authority or class action lawsuit on behalf of consumers relating to the operation of the license applicant.

(g) The aggregate liability of the surety on any bond given pursuant to the provisions of this section shall in no event exceed the amount of the bond.

(h) Nonresident lenders and brokers licensed under this article by their acceptance of the license acknowledge that they are subject to the jurisdiction of the courts of West Virginia and the service of process pursuant to §46A-2-137 of this code and §56-3-33 of this code.

(i) The commissioner may elect to reduce or waive the application fees, bond amounts, and net worth requirements imposed by this section for bona fide nonprofit corporations or other bona fide nonprofit business entities, including community housing development organizations, whose residential mortgage lending or brokering activities provide housing primarily to households or persons below the HUD-established median income for their area of residence. Any waiver of fees or other costs under this paragraph shall not be construed as a waiver of the duty to comply with all other provisions of this article.

(j) Every broker and lender licensee shall pay a fee of $5 for each residential mortgage loan originated, made, or brokered in a calendar year. This fee shall be paid annually for the benefit of the Division of Financial Institutions and remitted promptly through the Nationwide Multistate Licensing System and Registry when the invoice is received. If a licensee ceases operation, it shall complete the Statistical Activity Report and remit any fees due since the last reporting period when it relinquishes its license when invoiced by the Division through the Nationwide Multistate Licensing System and Registry.

(k) If a claim for a consumer restitution is pending on a bond required pursuant to this section when the commissioner makes a claim for a civil administrative penalty or an unpaid examination invoice, the consumer claim shall be resolved before any payments may be made for an unpaid penalty or examination invoice.

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