BY DELEGATES FRICH, WESTFALL, B. WHITE AND A. EVANS

(BY REQUEST OF THE DIVISION OF FINANCIAL INSTITUTIONS)

[Passed March 2, 2018; in effect ninety days from passage.]
ENROLLED

House Bill 4285

BY DELEGATES FRICH, WESTFALL, B. WHITE AND A. EVANS

(BY REQUEST OF THE DIVISION OF FINANCIAL INSTITUTIONS)

[Passed March 2, 2018; in effect ninety days from passage.]
AN ACT to amend and reenact §31-17A-4, §31-17A-6 and §31-17A-9 of the Code of West Virginia, 1931, as amended, all relating to the licensing requirements of mortgage loan originators; increasing the number of hours of education required for licensure and to meet continuing education requirements; and increasing the licensure application fee.

Be it enacted by the Legislature of West Virginia:

ARTICLE 17A. WEST VIRGINIA SAFE MORTGAGE LICENSING ACT.

§31-17A-4. State license application and issuance.

(a) Applicants for a license must apply in a form as prescribed by the commissioner. Each form shall contain content as set forth by instruction or procedure of the commissioner and may be changed or updated as necessary by the commissioner in order to carry out the purposes of this article. The application must be submitted with an application fee of $200 plus the actual cost of fingerprint processing, together with any processing fee assessed by the Nationwide Mortgage Licensing System and Registry. The commissioner may elect to reduce or waive the application fees for mortgage loan originators employed by bona fide nonprofit organizations or other community housing development organizations that serve the housing needs of 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.

(b) The commissioner is authorized to establish relationships or contracts with the Nationwide Mortgage Licensing System and Registry or other entities designated by the Nationwide Mortgage Licensing System and Registry to collect and maintain records and process transaction fees or other fees related to licensees or other persons subject to this article.

(c) In connection with an application for licensing as a mortgage loan originator, the applicant shall, at a minimum, furnish to the Nationwide Mortgage 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 Mortgage Licensing System and Registry and the commissioner, including the submission of authorization for the Nationwide Mortgage 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.

(d) To reduce the points of contact which the Federal Bureau of Investigation may have to maintain, the commissioner may use the Nationwide Mortgage 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.

(e) To reduce the points of contact which the commissioner may have to maintain, the commissioner may use the Nationwide Mortgage Licensing System and Registry as a channeling agent for requesting and distributing information to and from any source so directed by the commissioner.

(f) Nonresident mortgage loan originators 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 and §56-3-33 of this code.

(g) The commissioner may grant a provisional license to a mortgage loan originator who has met all other requirements for licensing under this article but: (1) Has not passed a test regarding West Virginia mortgage laws and regulations required for licensure: Provided, That the provisionally licensed mortgage loan originator takes and passes that test within 60 days of the test becoming available; or (2) for whom the commissioner has not received the results of a
criminal background check despite the good faith effort of the applicant to provide in a timely manner the information necessary to obtain a criminal background check.

§31-17A-6. Prelicensing and relicensing education of loan originators.

(a) To meet the prelicensing education requirement, a person must complete at least 24 hours of education approved in accordance with subsection (b) of this section, which shall include at least:

(1) Three hours of federal law and regulations;

(2) Three hours of ethics, which shall include instruction on fraud, consumer protection and fair lending issues;

(3) Two hours of training related to lending standards for the nontraditional mortgage product marketplace; and

(4) Four hours of training related to West Virginia mortgage and consumer laws or issues.

(b) For purposes of subsection (a) of this section, prelicensing education courses shall be reviewed and approved by the Nationwide Mortgage Licensing System and Registry or the Division based upon reasonable standards. Review and approval of a prelicensing education course shall include review and approval of the course provider.

(c) Nothing in this section precludes any prelicensing education course, as approved by the Nationwide Mortgage Licensing System and Registry or the Division, that is provided by the employer of the applicant or an entity which is affiliated with the applicant by an agency contract, or any subsidiary or affiliate of such employer or entity.

(d) Prelicensing education may be offered either in a classroom, online or by any other means approved by the Nationwide Mortgage Licensing System and Registry.

(e) The prelicensing education requirements approved by the Nationwide Mortgage Licensing System and Registry or the Division in subdivisions (1), (2) and (3) subsection (a) of this section for any state shall be accepted as credit towards completion of prelicensing education requirements in West Virginia.
(f) A person previously licensed under this article subsequent to July 1, 2009, applying to be licensed again must prove that they have completed all of the continuing education requirements for the year in which the license was last held.


(a) To meet the annual continuing education requirements, a licensed mortgage loan originator must complete at least nine hours of education approved in accordance with subsection (b) of this section, which shall include at least:

(1) Three hours of federal law and regulations;

(2) Two hours of ethics, which shall include instruction on fraud, consumer protection and fair lending issues;

(3) Two hours of training related to lending standards for the nontraditional mortgage product marketplace; and

(4) Two hours of West Virginia law or regulations.

(b) For purposes of subsection (a) of this section, continuing education courses shall be reviewed and approved by the Nationwide Mortgage Licensing System and Registry or the Division based upon reasonable standards. Review and approval of a continuing education course shall include review and approval of the course provider.

(c) Nothing in this section precludes any education course, as approved by the Nationwide Mortgage Licensing System and Registry, that is provided by the employer of the mortgage loan originator or an entity which is affiliated with the mortgage loan originator by an agency contract, or any subsidiary or affiliate of the employer or entity.

(d) Continuing education may be offered either in a classroom, online or by any other means approved by the Nationwide Mortgage Licensing System and Registry.

(e) A licensed mortgage loan originator:

(1) Except for §31-17A-8(b) of this code and subsection (i) of this section, may only receive credit for a continuing education course in the year in which the course is taken; and
(2) May not take the same approved course in the same or successive years to meet the annual requirements for continuing education.

(f) A licensed mortgage loan originator who is an approved instructor of an approved continuing education course may receive credit for the licensed mortgage loan originator's own annual continuing education requirement at the rate of two hours credit for every one hour taught.

(g) A person having successfully completed the education requirements approved by the Nationwide Mortgage Licensing System and Registry in subdivisions (1), (2) and (3), subsection (a) of this section for any state shall be accepted as credit towards completion of continuing education requirements in West Virginia.

(h) A licensed mortgage loan originator who subsequently becomes unlicensed must complete the continuing education requirements for the last year in which the license was held prior to issuance of a new or renewed license.

(i) A person meeting the renewal requirements of §31-17A-8(a)(1) and §31-17A-8(a)(3) of this code may make up any deficiency in continuing education as established by the commissioner.
Enr. HB 4285

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within is approved this the 22nd day of March 2018.

Governor
PRESENTED TO THE GOVERNOR

MAR 6 8 2010

Time 2:19 pm