

**A.C.A. § 23-39-510**

Current through all legislation of the 2023 Regular Session and the 2023 First Extraordinary Session.

*AR - Arkansas Code Annotated > Title 23 Public Utilities and Regulated Industries > Subtitle 2. Financial Institutions And Securities > Chapter 39 Mortgage Loan Companies and Loan Brokers > Subchapter 5 — Fair Mortgage Lending Act*

**23-39-510. Licensee duties.**

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- (a) In addition to duties imposed by other statutory or common law, a person required to be licensed under this subchapter shall:
- (1) Safeguard and account for any money received for, from, or on behalf of the borrower;
  - (2) Follow reasonable and lawful instructions from the borrower;
  - (3) Act with reasonable skill, care, and diligence;
  - (4) Make reasonable efforts with lenders with whom a mortgage broker regularly does business to secure a loan that is reasonably advantageous to the borrower considering all the circumstances, including the rates, charges, and repayment terms of the loan and the loan options for which the borrower qualifies with such lenders;
  - (5) Include the full name, address, and telephone number of the licensee in all solicitations and advertisements; and
  - (6)
    - (A) Provide the Securities Commissioner with a quarterly report of mortgage activity.
    - (B) The commissioner may designate by rule or order the information to be provided in the quarterly report.
- (b) At the time a mortgage servicer accepts assignment of servicing rights for a mortgage loan in this state, the mortgage servicer shall disclose to the borrower the following:
- (1) Any notice required by the Real Estate Settlement Procedures Act of 1974, 12 U.S.C. § 2601 et seq., as it existed on January 1, 2017, or by regulations promulgated thereunder; and
  - (2) A notice in a clear and conspicuous form and content that the mortgage servicer is licensed in Arkansas and that complaints about the mortgage servicer may be submitted to the commissioner.
- (c) The unique identifier of a person soliciting or originating a mortgage loan shall be clearly shown on all mortgage loan application forms, solicitations, advertisements, business cards, websites, and any other document or medium established by rule or order of the commissioner.
- (d)
- (1) A mortgage broker, mortgage banker, or mortgage servicer licensed or required to be licensed under this subchapter shall establish, implement, update, and enforce written physical

security and cybersecurity policies and procedures reasonably designed to ensure the confidentiality, integrity, and availability of physical and electronic records and information.

(2) A policy or procedure described in subdivision (d)(1) of this section shall be tailored to the size and sophistication of the mortgage broker, mortgage banker, or mortgage servicer.

(3) The commissioner may impose additional conditions by rule or order to clarify the requirements of a policy or procedure described in subdivision (d)(1) of this section.

(e) A mortgage broker, mortgage banker, or mortgage servicer shall establish, enforce, and maintain policies and procedures reasonably designed to achieve compliance with this subchapter and any other state law or rule or federal law or regulation that is applicable to any business the licensee is authorized to conduct in this state.

## History

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Acts 2003, No. 554, § 1; 2009, No. 731, § 21; 2011, No. 894, § 12; 2017, No. 669, § 4; 2021, No. 531, § 11.

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