

(5) Authority of the Director to prohibit persons from serving as loan originators

In any cease and desist proceeding under paragraph (1), the Director may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as the Director shall determine, any person who has violated this chapter or regulations thereunder, from acting as a loan originator if the conduct of that person demonstrates unfitness to serve as a loan originator.

(d) Authority of the Director to assess money penalties

(1) In general

The Director may impose a civil penalty on a loan originator operating in any State which is subject to a licensing system established by the Director under section 5107 of this title, if the Director finds, on the record after notice and opportunity for hearing, that such loan originator has violated or failed to comply with any requirement of this chapter or any regulation prescribed by the Director under this chapter or order issued under subsection (c).

(2) Maximum amount of penalty

The maximum amount of penalty for each act or omission described in paragraph (1) shall be \$25,000.

(Pub. L. 110-289, div. A, title V, §1514, July 30, 2008, 122 Stat. 2821; Pub. L. 111-203, title X, §1100(3), (9), July 21, 2010, 124 Stat. 2106, 2107.)

Editorial Notes

AMENDMENTS

Pub. L. 111-203 substituted “by the Bureau” for “under HUD backup licensing system” in section catchline and “Director” for “Secretary” wherever appearing in text.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

§ 5114. State examination authority

In addition to any authority allowed under State law a State licensing agency shall have the authority to conduct investigations and examinations as follows:

(1) For the purposes of investigating violations or complaints arising under this chapter, or for the purposes of examination, the State licensing agency may review, investigate, or examine any loan originator licensed or required to be licensed under this chapter, as often as necessary in order to carry out the purposes of this chapter.

(2) Each such loan originator shall make available upon request to the State licensing agency the books and records relating to the operations of such originator. The State licensing agency may have access to such books and records and interview the officers, principals, loan originators, employees, inde-

pendent contractors, agents, and customers of the licensee concerning their business.

(3) The authority of this section shall remain in effect, whether such a loan originator acts or claims to act under any licensing or registration law of such State, or claims to act without such authority.

(4) No person subject to investigation or examination under this section may knowingly withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer records, or other information.

(Pub. L. 110-289, div. A, title V, §1515, July 30, 2008, 122 Stat. 2823.)

§5115. Reports and recommendations to Congress

(a) Annual reports

Not later than 1 year after July 30, 2008, and annually thereafter, the Director shall submit a report to Congress on the effectiveness of the provisions of this chapter, including legislative recommendations, if any, for strengthening consumer protections, enhancing examination standards, streamlining communication between all stakeholders involved in residential mortgage loan origination and processing, and establishing performance based bonding requirements for mortgage originators or institutions that employ such brokers.

(b) Legislative recommendations

Not later than 6 months after July 30, 2008, the Director shall make recommendations to Congress on legislative reforms to the Real Estate Settlement Procedures Act of 1974 [12 U.S.C. 2601 et seq.], that the Director deems appropriate to promote more transparent disclosures, allowing consumers to better shop and compare mortgage loan terms and settlement costs.

(Pub. L. 110-289, div. A, title V, §1516, July 30, 2008, 122 Stat. 2824; Pub. L. 111-203, title X, §1100(3), July 21, 2010, 124 Stat. 2106.)

Editorial Notes

REFERENCES IN TEXT

The Real Estate Settlement Procedures Act of 1974, referred to in subsec. (b), is Pub. L. 93-533, Dec. 22, 1974, 88 Stat. 1724, which is classified principally to chapter 27 (§2601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of this title and Tables.

AMENDMENTS

2010—Pub. L. 111-203 substituted “Director” for “Secretary” wherever appearing.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

§5116. Study and reports on defaults and foreclosures

(a) Study required

The Director shall conduct an extensive study of the root causes of default and foreclosure of

home loans, using as much empirical data as is available.

(b) Preliminary report to Congress

Not later than 6 months after July 30, 2008, the Director shall submit to Congress a preliminary report regarding the study required by this section.

(c) Final report to Congress

Not later than 12 months after July 30, 2008, the Director shall submit to Congress a final report regarding the results of the study required by this section, which shall include any recommended legislation relating to the study, and recommendations for best practices and for a process to provide targeted assistance to populations with the highest risk of potential default or foreclosure.

(Pub. L. 110-289, div. A, title V, §1517, July 30, 2008, 122 Stat. 2824; Pub. L. 111-203, title X, §1100(3), July 21, 2010, 124 Stat. 2106.)

Editorial Notes

AMENDMENTS

2010—Pub. L. 111-203 substituted “Director” for “Secretary” wherever appearing.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

§ 5117. Employment transition of loan originators

(a) Definitions

In this section:

(1) Application State

The term “application State” means a State in which a registered loan originator or a State-licensed loan originator seeks to be licensed.

(2) State-licensed mortgage company

The term “State-licensed mortgage company” means an entity that is licensed or registered under the law of any State to engage in residential mortgage loan origination and processing activities.

(b) Temporary authority to originate loans for loan originators moving from a depository institution to a non-depository institution

(1) In general

Upon becoming employed by a State-licensed mortgage company, an individual who is a registered loan originator shall be deemed to have temporary authority to act as a loan originator in an application State for the period described in paragraph (2) if the individual—

(A) has not had—

(i) an application for a loan originator license denied; or

(ii) a loan originator license revoked or suspended in any governmental jurisdiction;

(B) has not been subject to, or served with, a cease and desist order—

(i) in any governmental jurisdiction; or

(ii) under section 5113(c) of this title;

(C) has not been convicted of a misdemeanor or felony that would preclude licensure under the law of the application State;

(D) has submitted an application to be a State-licensed loan originator in the application State; and

(E) was registered in the Nationwide Mortgage Licensing System and Registry as a loan originator during the 1-year period preceding the date on which the information required under section 5104(a) of this title is submitted.

(2) Period

The period described in this paragraph shall begin on the date on which an individual described in paragraph (1) submits the information required under section 5104(a) of this title and shall end on the earliest of the date—

(A) on which the individual withdraws the application to be a State-licensed loan originator in the application State;

(B) on which the application State denies, or issues a notice of intent to deny, the application;

(C) on which the application State grants a State license; or

(D) that is 120 days after the date on which the individual submits the application, if the application is listed on the Nationwide Mortgage Licensing System and Registry as incomplete.

(c) Temporary authority to originate loans for State-licensed loan originators moving interstate

(1) In general

A State-licensed loan originator shall be deemed to have temporary authority to act as a loan originator in an application State for the period described in paragraph (2) if the State-licensed loan originator—

(A) meets the requirements of subparagraphs (A), (B), (C), and (D) of subsection (b)(1);

(B) is employed by a State-licensed mortgage company in the application State; and

(C) was licensed in a State that is not the application State during the 30-day period preceding the date on which the information required under section 5104(a) of this title was submitted in connection with the application submitted to the application State.

(2) Period

The period described in this paragraph shall begin on the date on which the State-licensed loan originator submits the information required under section 5104(a) of this title in connection with the application submitted to the application State and end on the earliest of the date—

(A) on which the State-licensed loan originator withdraws the application to be a State-licensed loan originator in the application State;

(B) on which the application State denies, or issues a notice of intent to deny, the application;