

RCW 19.146.205 License—Application—Applicant to furnish information establishing identity—Background check—Fee—Bond or alternative. (1) Application for a mortgage broker license under this chapter must be made to the nationwide mortgage licensing system and registry and in the form prescribed by the director. The application must contain at least the following information:

(a) The name, address, date of birth, and social security number of the applicant, and any other names, dates of birth, or social security numbers previously used by the applicant, unless waived by the director;

(b) If the applicant is a partnership, association, or limited liability company the name, address, date of birth, and social security number of each general partner, principal, or member of the association, and any other names, dates of birth, or social security numbers previously used by the members, unless waived by the director;

(c) If the applicant is a corporation, the name, address, date of birth, and social security number of each officer, director, registered agent, and each principal stockholder, and any other names, dates of birth, or social security numbers previously used by the officers, directors, registered agents, and principal stockholders unless waived by the director;

(d) The street address, county, and municipality where the principal business office is to be located;

(e) The name, address, date of birth, and social security number of the applicant's designated broker, and any other names, dates of birth, or social security numbers previously used by the designated broker and a complete set of the designated broker's fingerprints taken by an authorized law enforcement officer; and

(f) (i) Such other information regarding the applicant's or designated broker's background, financial responsibility, experience, character, and general fitness as the director may require by rule.

(ii) The director may waive one or more requirements of this section or permit an applicant to submit other information in lieu of the required information.

(2) As a part of or in connection with an application for any license under this section, or periodically upon license renewal, the applicant must furnish information concerning his or her identity, including fingerprints for submission to the Washington state patrol, the federal bureau of investigation, the nationwide mortgage licensing system and registry, or any governmental agency or entity authorized to receive this information for a state and national criminal history background check; personal history; experience; business record; purposes; and other pertinent facts, as the director may reasonably require. As part of or in connection with an application for a license under this chapter, the director is authorized to receive criminal history record information that includes nonconviction data as defined in RCW 10.97.030. The department may only disseminate nonconviction data obtained under this section to criminal justice agencies. This section does not apply to financial institutions regulated under chapters 31.12 and 31.13 RCW and Titles 30A, 32, and 33 RCW.

(3) In order to reduce the points of contact which the federal bureau of investigation may have to maintain, the director may use the nationwide mortgage licensing system and registry as a channeling agent for requesting information from and distributing information to the department of justice or any governmental agency.

(4) In order to reduce the points of contact which the director may have to maintain, the director 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 director.

(5) At the time of filing an application for a license under this chapter, each applicant must pay to the director through the nationwide mortgage licensing system and registry the appropriate application fee in an amount determined by rule of the director in accordance with RCW 43.24.086 to cover, but not exceed, the cost of processing and reviewing the application. The director must deposit the moneys in the financial services regulation fund, unless the consumer services account is created as a dedicated, nonappropriated account, in which case the director must deposit the moneys in the consumer services account.

(6) (a) Except as provided in (b) of this subsection, each applicant for a mortgage broker's license must file and maintain a surety bond, in an amount which the director deems adequate to protect the public interest, executed by the applicant as obligor and by a surety company authorized to do a surety business in this state as surety. The bonding requirement as established by the director must take the form of a range of bond amounts which vary according to the annual loan origination volume of the licensee. The bond must run to the state of Washington as obligee, and must run first to the benefit of the borrower and then to the benefit of the state and any person or persons who suffer loss by reason of the applicant's or its loan originator's violation of any provision of this chapter or rules adopted under this chapter. The bond must be conditioned that the obligor as licensee will faithfully conform to and abide by this chapter and all rules adopted under this chapter, and must reimburse all persons who suffer loss by reason of a violation of this chapter or rules adopted under this chapter. Borrowers must be given priority over the state and other persons. The state and other third parties must be allowed to receive distribution pursuant to a valid claim against the remainder of the bond. In the case of claims made by any person or entity who is not a borrower, no final judgment may be entered prior to one hundred eighty days following the date the claim is filed. The bond must be continuous and may be canceled by the surety upon the surety giving written notice to the director of its intent to cancel the bond. The cancellation must be effective thirty days after the notice is received by the director. Whether or not the bond is renewed, continued, reinstated, reissued, or otherwise extended, replaced, or modified, including increases or decreases in the penal sum, it is considered one continuous obligation, and the surety upon the bond is not liable in an aggregate or cumulative amount exceeding the penal sum set forth on the face of the bond. In no event is the penal sum, or any portion thereof, at two or more points in time be added together in determining the surety's liability. The bond is not be [is not] liable for any penalties imposed on the licensee, including, but not limited to, any increased damages or attorneys' fees, or both, awarded under RCW 19.86.090. The applicant may obtain the bond directly from the surety or through a group bonding arrangement involving a professional organization comprised of mortgage brokers if the arrangement provides at least as much coverage as is required under this subsection.

(b) If the director determines that the bond required in (a) of this subsection is not reasonably available, the director must waive

the requirements for such a bond. The mortgage recovery fund account is created in the custody of the state treasurer. The director is authorized to charge fees to fund the account. All fees charged under this section, except those retained by the director for administration of the account, must be deposited into the mortgage recovery fund account. Expenditures from the account may be used only for the same purposes as the surety bond as described in (a) of this subsection. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. A person entitled to receive payment from the mortgage recovery account may only receive reimbursement after a court of competent jurisdiction has determined the actual damages caused by the licensee. The director may determine by rule the procedure for recovery; the amount each mortgage broker must pay through the nationwide mortgage licensing system and registry for deposit in the mortgage recovery account; and the amount necessary to administer the account. [2015 c 229 s 11; 2009 c 528 s 4; 2006 c 19 s 10; 2001 c 177 s 4; 1997 c 106 s 9; 1994 c 33 s 8; 1993 c 468 s 6.]

Effective date—License requirement—Implementation—2009 c 528: See notes following RCW 19.146.010.

Effective date—2001 c 177: See note following RCW 43.320.080.

Severability—1997 c 106: See note following RCW 19.146.010.

Adoption of rules—Severability—1993 c 468: See notes following RCW 19.146.0201.

Effective dates—1993 c 468: See note following RCW 19.146.200.