

# Regulatory Analysis Form

(Completed by Promulgating Agency)



# IRRC

Independent Regulatory Review Commission

## SECTION I: PROFILE

(1) Agency: Department of Banking

(2) Agency Number: 3

Identification Number: 44

IRRC Number: 2766

INDEPENDENT REGULATORY  
REVIEW COMMISSION

2009 MAY 27 PM 1:45

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(3) Short Title:

Mortgage Licensee Education

(4) PA Code Cite:

10 Pa. Code Chapter 44

(5) Agency Contacts (List Telephone Number, Address, Fax Number and Email Address):

**Primary Contact:** Robert C. Lopez, Deputy Chief Counsel, Department of Banking, 17 N. Second Street, Suite 1300, Harrisburg, PA 17101, (717) 787-1471, Email: [pabankreg@state.pa.us](mailto:pabankreg@state.pa.us).

**Secondary Contact:** Carter D. Frantz, Chief Counsel, Department of Banking, 17 N. Second Street, Suite 1300, Harrisburg, PA 17101, (717) 787-1471, Email: [pabankreg@state.pa.us](mailto:pabankreg@state.pa.us).

(6) Primary Contact for Public Comments (List Telephone Number, Address, Fax Number and Email Address) – Complete if different from #5:

(All Comments will appear on IRRC'S website)

(7) Type of Rulemaking (check applicable box):

- Proposed Regulation
- Final Regulation
- Final Omitted Regulation
- Emergency Certification Regulation;
  - Certification by the Governor
  - Certification by the Attorney General

## Regulatory Analysis Form

**(8) Briefly explain the regulation in clear and nontechnical language. (100 words or less)**

The proposed regulation implements the pre-licensure education and testing and continuing education requirements of 7 Pa.C.S. Ch. 61 (relating to mortgage loan industry licensing and consumer protection) (the "Mortgage Act").

**(9) Include a schedule for review of the regulation including:**

- |   |  |
|---|--|
| A. The date by which the agency must receive public comments:                               | 30 days from the date of publication in the <u><i>Pennsylvania Bulletin</i></u> .                                |
| B. The date or dates on which public meetings or hearings will be held:                     | <u>None.</u>   |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | <u>3<sup>rd</sup> Quarter 2009</u>   |
| D. The expected effective date of the final-form regulation:                                | 14 days from the date of the publication of the final-form regulation in the <u><i>Pennsylvania Bulletin</i></u> |
| E. The date by which compliance with the final-form regulation will be required: ,          | 14 days from the date of the publication of the final-form regulation in the <u><i>Pennsylvania Bulletin</i></u> |
| F. The date by which required permits, licenses or other approvals must be obtained:        | <u>n/a</u>   |

**(10) Provide the schedule for continual review of the regulation.**

The regulation will be reviewed by Department staff on an annual bases commencing on the date the regulation is promulgated.

## Regulatory Analysis Form

### **SECTION II: STATEMENT OF NEED**

**(11) State the statutory authority for the regulation. Include specific statutory citation.**

The Department is promulgating the regulation under Section 6131(g)(3) of the Mortgage Act, 7 Pa.C.S. § 6131(g)(3).

**(12) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.**

Yes. The regulation is mandated by the Section 6131(g)(3) of the Mortgage Act, 7 Pa.C.S. § 6131(g)(3), which requires the Department to promulgate a regulation detailing the requirements for pre-licensure education and testing and continuing education programs for licensees under the act.

**(13) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.**

The regulation is required by the Mortgage Act in order to define the education and testing requirements for licensees under the Mortgage Act. The public interest is served by implementation of a mandatory statutory education and testing program to ensure minimum education standards for mortgage professionals.

The primary beneficiaries of the regulation are borrowers seeking mortgage loans from licensees. Licensees will be required to successfully complete education and testing programs involving Pennsylvania residential mortgage law, including the Mortgage Act and the Loan Interest and Protection Law (41 P. S. §§ 101--605), business ethics and one or more of the following subject areas: Federal residential mortgage law, including the Real Estate Settlement Procedures Act (12 U.S.C. §§ 2601--2617), the Truth in Lending Act (15 U.S.C. §§ 1601--1667e) and the Equal Credit Opportunity Act (15 U.S.C. §§ 1691--1691f) and/or the mortgage loan business.

Continuing education providers will benefit from the fees generated from of applicants and licensees under the Mortgage Act attending or subscribing to education programs.

**(14) If scientific data, studies, references are used to justify this regulation, please submit material with the regulatory package. Please provide full citation and/or links to internet source.**

Not applicable.

## Regulatory Analysis Form

**(15) Describe who and how many will be adversely affected by the regulation. How are they affected?**

Applicants under the Mortgage Act will be required to pay fees and costs associated with taking 12 credit hours of pre-licensure education and testing programs. Once licensees, they will be required to pay fees and costs associated with taking 6 hours of continuing education programs. Costs may include the tuition for each credit hour of education, testing, travel and travel related expenses. It is unclear at this time what the credit hour/testing charges by education providers will be. However, for comparison, under the MBBCEPA, licensees were required to annually complete 6 credit hours of continuing education offered by Department approved providers. The cost for 6 hours of continuing education credit ranged from \$95 to \$225. Assuming education providers charge in the same range for pre-licensure education and testing, the pre-licensure education requirement costs will range from \$190-\$450 per licensee. The ultimate cost to licensees will depend upon variables such as the number of licensed offices the licensee operates (an individual at each licensed office who is not a mortgage originator must complete the continuing education requirement) and whether companies will assume the costs of the education and testing requirements for their mortgage originator employees. The education costs may be mitigated for licensees who are licensed in multiple jurisdictions because the regulation allows for reciprocity with other states' education courses for the non-Pennsylvania specific education programs. Therefore, licensees that have completed non-Pennsylvania specific courses approved by another states' mortgage regulator or by the National Mortgage Licensing System and Registry will receive the equivalent education credit in Pennsylvania. Applicants and licensees that do not comply with the regulation may suffer penalties, including the revocation or suspension of their license or denial of their application.

Costs will also be incurred by education providers for review and approval of their education programs by the Department. Under the MBBCEPA, the Department charged a \$750 annual fee to education providers for reviewing and approving proposed education programs. The Department does not intend to increase this fee for the 2009 annual renewal period.

There are currently 9,149 licenses issued under the Mortgage Act, this figure includes branch licenses.

**(16) List the persons, groups or entities that will be required to comply with the regulation. Approximate the number of people who will be required to comply.**

All current and future licensees under the Mortgage Act at the time the regulation is effective. There are currently 9,149 licenses issued under the Mortgage Act, this figure includes branch licenses.

## Regulatory Analysis Form

### **SECTION III: COST AND IMPACT ANALYSIS**

**(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.**

There will be a fiscal impact on licensees under the Mortgage Act to the extent the licensees must incur costs to comply with the Mortgage Act's education mandates. The Department refers to its response to question 15 for a discussion of the costs associated with the regulation.

**(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.**

None.

**(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.**

None.

## Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<b>SAVINGS:</b>	\$ None.	\$	\$	\$	\$	\$
Regulated Community	None.					
Local Government	None.					
State Government	None.					
<b>Total Savings</b>						
<b>COSTS:</b>						
Regulated Community	Unable to be determined.*					
Local Government	None.					
State Government	None.					
<b>Total Costs</b>						
<b>REVENUE LOSSES:</b>						
Regulated Community	Unable to be determined.**					
Local Government	None.					
State Government	None.					
<b>Total Revenue Losses</b>						

\* See the Department's response to question 15 for a complete discussion of costs.

\*\*Compliance with the regulation will lead to decreased gross revenue for those Licensees as a result of the Mortgage Act's education and testing requirements. The loss of revenue will depend upon the fees charged by education providers and any associated costs for attendance for the education programs in addition to the structure of the licensees' business, e.g., the number of licensed offices and whether the costs for mortgage originator employees will be covered by the licensed employer. These losses are not able to be quantified by the Department. The Department also refers to its response to Question 15 for a complete discussion of costs.

(20a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
Not applicable.				

## Regulatory Analysis Form

**(21) Explain how the benefits of the regulation outweigh any cost and adverse effects.**

Not applicable. The regulation is required by Section 6131(g)(3) of the Mortgage Act which requires the Department to promulgate a regulation detailing education and testing requirements for licensees.

**(22) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.**

The proposed regulation was delivered to industry representatives and current Pennsylvania mortgage education providers. Specifically, the following entities:

1. Mike Catarino – Pennsylvania Financial Services Association
2. Edward Eveland – HSBC – North America
3. Robert Sweeney – Citigroup
4. Dan Reisteter – Pennsylvania Bankers Association
5. David Transue – Pennsylvania Association of Community Bankers
6. E. Robert Levy – Mortgage Bankers Association of Pennsylvania and Pennsylvania Association of Mortgage Brokers
7. Abacus Mortgage Training and Education
8. Advanced Education Systems, LLC
9. All Star Professional Training Inc.
10. Broker Education
11. Mortgage Bankers Association
12. Mortgage Bankers Association of PA
13. Mortgage License Compliance, LLC
14. Mortgage Research, Inc.
15. Pro Schools, Inc.
16. Providence Mortgage Training & Development Institute LLC

**(23) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.**

There were no alternative regulatory provisions considered because the Mortgage Act requires the Department to promulgate the regulation and dictates the education requirements.

## Regulatory Analysis Form

**(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.**

For licensees with a mortgage broker, lender or loan correspondent licenses, there is no federal regulation of these professions and, accordingly, there are no federal laws requiring education and testing.

For licensees with a mortgage originator license, a federal law was enacted on July 30, 2008, called the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (the "SAFE Act"), 12 U.S.C. § 5101 *et seq.* Sections 5104 and 5105 of the SAFE Act set forth minimum licensing and education standards for all mortgage originators in the nation that are stricter than in the Mortgage Act. The SAFE Act education requirements impose an additional 8 credit hours of pre-education, 2 credit hours of continuing education and minimum testing requirements. 12 U.S.C. §§ 5104(d) and 5105(b). If states do not enact legislation adopting the SAFE Act requirements, the federal government will assume regulation of mortgage originators and impose the SAFE Act standards. 12 U.S.C. § 5107. Pennsylvania has until July 30, 2009, to adopt provisions consistent with the SAFE Act. The Department will be seeking to amend the Mortgage Act to comply with SAFE Act in early 2009 and the regulation is intended as a temporary measure until the amendments are enacted.

**(25) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?**

The education and testing requirements of the regulation are statutorily mandated by the Mortgage Act; however, the regulatory framework which implements the requirement of the Mortgage Act are comparable to others states with education and testing requirements for its licensees. The education and testing hours required by the Mortgage Act are comparable, if not less strict, than other states with education and testing standards.

For mortgage originator licensees, regardless of the current education and testing requirements of other states for mortgage originators, under the SAFE Act, all mortgage originators across the nation will have the education and testing requirements set forth in the SAFE Act, which are more stringent than the regulation. The Department will be seeking to amend the Mortgage Act to comply with SAFE Act mandates in early 2009 and this regulation is intended as a stop-gap measure until this is accomplished.

The regulation will not put licensees at a competitive disadvantage with other states.

**(26) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.**

No.



## Regulatory Analysis Form

**(27) Submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.**

Promulgation of the regulation will generally increase reporting, record keeping and other paperwork requirements for the industry as well as the Department. Licensees will be required to demonstrate to the satisfaction of the Department that they have met all pre-licensure and continuing education requirements by maintaining records of successfully completed programs for a period of 4 years after the completion of each program, not counting the year in which the program was completed. The increase in recordkeeping is entirely attributable to the Mortgage Act's creation of a new license type and the imposition of education requirements on licensees that did not previously have mandatory education and/or testing requirements. Only licensees that were licensed under the MBBCEPA were previously required to maintain records of continuing education programs. Licensees under the SMLA did not have any education requirements and mortgage originators are a new class of licensee and, therefore, the Mortgage Act's education requirements naturally impose new recordkeeping responsibilities upon these licensees. The Department believes that by basing the Mortgage Act's education and testing requirements upon the education regulation used under the MBBCEPA, the effects of the new recordkeeping requirements are as minimal as possible.

**(28) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.**

None.

FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU

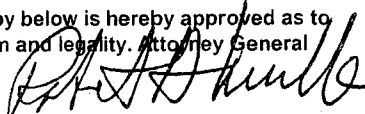
(Pursuant to Commonwealth Documents Law)

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INDEPENDENT REGULATORY  
REVIEW COMMISSION

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Copy below is hereby approved as to form and legality. Attorney General  
  
BY: \_\_\_\_\_  
(Deputy Attorney General)

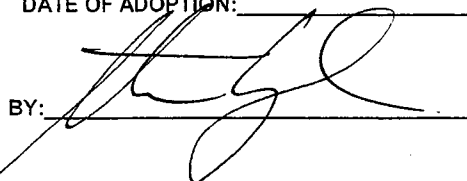
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Check if applicable.  
Copy not approved. Objections attached.

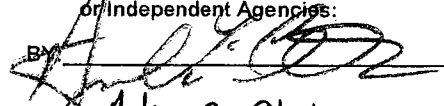
Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:  
\_\_\_\_\_  
Department of Banking  
(Agency)

DOCUMENT/FISCAL NOTE NO. 3-44

DATE OF ADOPTION: \_\_\_\_\_

BY: 

TITLE: Secretary of Banking  
(Exec. Officer, Chairman or Secretary)

Copy below is hereby approved as to form and legality. Executive of Independent Agencies:  
  
BY: \_\_\_\_\_  
Andrew C. Clark  
**APR 16 2009**  
\_\_\_\_\_  
DATE OF APPROVAL

(Deputy General Counsel)  
(~~Chief Counsel, Independent Agency~~)

(Strike inapplicable title)

Check if applicable. No Attorney General approval or objection within 30 days after submission.

PROPOSED RULEMAKING  
DEPARTMENT OF BANKING  
BUREAU OF CONSUMER CREDIT AGENCIES  
MORTGAGE LICENSEE EDUCATION  
[10 PA. CODE CH. 44]

**PROPOSED RULEMAKING**

**DEPARTMENT OF BANKING**

**TITLE 10 – BANKS AND BANKING**

**DEPARTMENT OF BANKING**

**[10 PA. CODE CH. 44]**

**Notice of Proposed Rulemaking; Regulation Regarding the Education of Licensees Under 7 Pa.C.S. Ch. 61 (relating to mortgage loan industry licensing and consumer protection).**

The Commonwealth of Pennsylvania Department of Banking (the “Department”), is publishing this notice to solicit input regarding the Department’s proposed rulemaking regarding pre-licensure education and testing and continuing education requirements for licensees under 7 Pa.C.S. Ch. 61 (relating to mortgage loan industry licensing and consumer protection) (the “Mortgage Act”).

*Purpose of Proposed Rulemaking*

The Department is promulgating this regulation as a result of the passage of the Mortgage Act which on November 5, 2008, enacted a new regulatory scheme for mortgage professionals and repealed Chapter 3 of the Mortgage Brokers and Bankers and Consumer Equity Protection Act (the “MBBCEPA”), 63 P.S. § 456.101 *et seq.*, and the Secondary Mortgage Loan Act (the “SMLA”), 7 P.S. § 6601 *et seq.* The Mortgage Act imposes pre-licensure education and testing requirements as well as continuing education requirements for all licensees under the act. This proposed rulemaking will amend the currently existing continuing education regulation promulgated under the MBBCEPA at 10 Pa. Code Ch. 44.

*Explanation of Proposed Regulatory Requirements*

Pursuant to the Mortgage Act, the proposed regulation requires the following:

(a) Applicants who are seeking a license as a mortgage broker, mortgage lender and mortgage loan correspondent must have: (i) an individual who is a director, partner or ultimate equitable owner of 10% or more of an applicant successfully complete at least 12 hours of education and testing prior to licensure and (ii) all mortgage originators to be employed by the licensee to have successfully completed the pre-licensing education and testing requirements of the Mortgage Act. Once these applicants have received a mortgage broker, mortgage lender or mortgage loan correspondent license, they must have: (i) at least one individual at each licensed office, who is not a mortgage originator, successfully complete at least 6 hours of education per annual renewal license period and (ii) ensure that all mortgage originators employed by the licensee successfully complete at least 6 credit hours of education per annual renewal license period; and,

(b) Applicants for a mortgage originator license must successfully complete at least 12 hours of pre-licensure education and testing. After licensure, mortgage originators must successfully complete 6 hours of education per annual renewal license period.

#### *Entities Affected*

All existing and future licensees under the Mortgage Act will be affected by the proposed rulemaking at the time the regulation is effective. It is anticipated that there will be approximately 9,149 licensees under the Mortgage Act.

#### *Costs and Paperwork Requirements*

The proposed rulemaking will have no fiscal impact on the Department, the Commonwealth and its political subdivisions.

Applicants under the Mortgage Act will be required to pay fees and costs associated with taking 12 credit hours of pre-licensure education and testing programs and licensees will be required to pay fees and costs associated with taking 6 hours of continuing education programs. Costs may include the tuition for each credit hour of education, testing, travel and travel-related expenses. It is unclear at this time what the credit hour/testing charges by education providers will be. However, for comparison, under the MBBCEPA, licensees were required to annually complete 6 credit hours of continuing education offered by Department approved providers. The cost for 6 hours of continuing education credit ranged from \$95 to \$225. Assuming education providers charge in the same range for pre-licensure education and testing, the pre-licensure education requirement costs will range from \$190-\$450 per licensee.

The ultimate cost to licensees will depend upon variables such as the number of licensed offices the licensee operates (an individual at each licensed office who is not a mortgage originator must complete the continuing education requirements) and whether companies will assume the costs of the education and testing requirements for their mortgage originator employees. The education costs may be mitigated for licensees who are licensed in multiple jurisdictions because the regulation allows for reciprocity with other states' education courses for the non-Pennsylvania specific education programs. Therefore, licensees that have completed non-Pennsylvania specific courses approved by another states' mortgage regulator or by the National Mortgage Licensing System and Registry will receive the equivalent education credit in Pennsylvania. Applicants and licensees that do not comply with the regulation may suffer penalties, including the revocation or suspension of their license or denial of their application.

Lastly, relating to costs, the Department will charge a fee to education providers for review and approval of their education courses. Under the MBBCEPA, the Department charged a \$750 annual fee to education providers for reviewing and approving proposed education programs. The Department does not intend to increase this fee for the 2009 annual renewal period.

Regarding recordkeeping, promulgation of the regulation will generally increase reporting, recordkeeping and other paperwork requirements for the industry as well as the Department. Licensees will be required to demonstrate to the satisfaction of the Department that they have met all pre-licensure and continuing education requirements by maintaining records of successfully completed programs for a period of two years after the completion of each program, not counting the year in which the program was completed. The increase in recordkeeping is entirely attributable to the Mortgage Act's creation of a new license type and the imposition of education requirements on licensees that did not previously have mandatory education and/or testing requirements. Only licensees that were licensed under the MBBCEPA were previously required to maintain records of continuing education programs. Licensees under the SMLA did not have any education requirements and mortgage originators are a new class of licensee and, therefore, the Mortgage Act's education requirements naturally impose new recordkeeping responsibilities.

#### *Effectiveness / Sunset Date*

All provisions of the proposed rulemaking will be effective 14 days from the date of publication of the final-form regulation in the *Pennsylvania Bulletin*. There is no sunset date.

#### *Regulatory Review*

Pursuant to section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on May 27, 2009, the Department submitted a copy of this proposed rulemaking and a copy of the Regulatory Analysis Form to the Independent Regulatory Review Commission ("IRRC") and the Chairmen of the House Committee on Commerce and the Senate Committee on Banking and Insurance. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey comments, recommendations or objections to the proposed rulemaking within 30 days after the close of the public comment period, specifying the regulatory review criteria that have not been met. The Regulatory Review Act sets forth procedures that permit the General Assembly and the Governor to review IRRC's comments, recommendations or objections prior to final adoption of the proposed rulemaking.

#### *Public Comments*

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking within 30 days after publication in the *Pennsylvania Bulletin* to the Office of Chief Counsel, Department of Banking, Attention: Public Comment on Regulation 3-44, 17 N. Second Street, Suite 1300, Harrisburg, PA 17101-2290, Telephone No.: (717) 787-1471, Fax No.: 717-783-8427.

STEVEN KAPLAN,  
*Secretary*



**TITLE 10. BANKS AND BANKING**

**PART IV. BUREAU OF CONSUMER CREDIT AGENCIES**

**CHAPTER 44. MORTGAGE BANKERS AND BROKERS AND CONSUMER  
EQUITY PROTECTION LICENSEE EDUCATION**

**CONTINUING EDUCATION**

Sec.

- 44.1 Definitions.
- 44.2 Requirements for applicant education and testing.
- 44.2a Requirements for licensee continuing education.
- 44.3 Reporting, verification and recordkeeping.
- 44.4 Review and approval of education programs.
- 44.5 Enforcement.

**Authority**

The provisions of this Chapter 44 issued under ~~section 304(e) of the Mortgage Bankers and Brokers and Consumer Equity Protection Act (63 P.S. § 456.304(e))~~ 7 Pa.C.S. § 6131(g)(3), unless otherwise noted.

**Source**

The provisions of this Chapter 44 adopted March 1, 2002, effective March 2, 2002, 32 Pa.B. 1180; amended \_\_\_\_\_, 2008, effective \_\_\_\_\_, 2008, \_\_\_\_\_ Pa.B. \_\_\_\_\_, unless otherwise noted.

**§ 44.1. Definitions.**

The following words and terms, when used in this chapter, have the following meanings unless the context clearly indicates otherwise:

*Act*-- ~~The Mortgage Bankers and Brokers and Consumer Equity Protection Act (63 P.S. §§ 456.101–456.3101)~~ 7 Pa.C.S. Chapter 61 (relating to mortgage loan industry licensing and consumer protection).

*Annual renewal date*-- ~~July~~ January 1 of each calendar year.

*Annual renewal period*-- The licensing term commencing ~~July~~ on the annual renewal date ~~1 calendar year~~ and ending on ~~June~~ December ~~30~~ 31 of the following ~~same~~ calendar year.

*Applicant*-- An applicant as defined in 7 Pa.C.S. § 6102.

*Continuing Education program*--

(i) ~~An~~ A educational program providing education and a written or electronic testing component as required by section 304(e) of the act (63 P. S. § 456.304(e)) 7 Pa.C.S. § 6131(g) offered by an education provider to the public or to its own employees which contributes directly to the enhancement of the professional competence of a mortgage professional an applicant, licensee or individual to engage in the first mortgage loan business and which has been approved by the Department.

(ii) The term does not include programs which instruct in matters such as office or business management, personnel management or similar subjects not directly related to the first mortgage loan business.

~~Continuing e Education provider--~~ A provider of an continuing education program that has been approved by the Department. A licensee, other than a mortgage originator, may be an education provider.

~~Credit hour--~~ Sixty minutes of classroom instruction or the equivalent as determined by the Department.

~~First mortgage loan business--~~ The first mortgage loan business as defined in section 302 of the act (63 P. S. § 456.302).

~~Instructor--~~ An individual responsible for teaching an continuing education program that has been approved by the Department.

~~Licensee--~~ A person licensed under the act licensee as defined in 7 Pa.C.S. § 6102.

~~Limited mortgage broker--~~ A limited mortgage broker as defined in section 302 of the act.

~~Loan correspondent--~~ A loan correspondent as defined in section 302 of the act.

~~Mortgage loan business--~~ The mortgage loan business as defined in 7 Pa.C.S. § 6102.

~~Mortgage banker--~~ A mortgage banker as defined in section 302 of the act.

~~Mortgage broker--~~ A mortgage broker as defined in section 302 of the act.

~~Mortgage originator--~~ A mortgage originator as defined in 7 Pa.C.S. § 6102.

~~Mortgage professional--~~

~~(i) A manager of each licensed office maintained by a licensee; any owner, director, officer or W-2 employee of a licensee who has the authority to underwrite or approve loans, either individually or in combination with other individuals as members of a committee; or any owner, director, officer or W-2 employee of a licensee who, as part of~~



~~his official duties, directly contacts borrowers to present, negotiate or advise regarding loan terms.~~

~~(ii) A mortgage professional does not include any individual who engages solely in processing loan applications or other administrative or clerical functions, or both.~~

~~Nationwide Mortgage Licensing System and Registry – As defined in 12 U.S.C.S. § 5103 (relating to definitions).~~

~~Person-- A person as defined in section 302 of the act 7 Pa.C.S. § 6102.~~

**§ 44.2. Requirements for applicant education and testing.**

~~(a) — Except as provided in subsection (b), to renew a license, a licensee shall demonstrate to the satisfaction of the department that:~~

~~(1) — In the case of a mortgage banker, mortgage broker or loan correspondent, the licensee maintains at least one separate mortgage professional at each licensed office who has successfully completed during the annual renewal period at least 6 12 credit hours of continuing education programs which shall include 1 credit hour of Pennsylvania residential mortgage law, including the act and the Loan Interest and Protection Law (41 P. S. §§ 101–605), 1 credit hour of business ethics and 4 10 credit hours from among one or more of the following subject areas:~~

~~(i) — Federal residential mortgage law, including the Real Estate Settlement Procedures Act (12 U.S.C.A. §§ 2601–2617), the Truth in Lending Act (15 U.S.C.A. §§ 1601–1667e) and the Equal Credit Opportunity Act (15 U.S.C.A. §§ 1691–1691f).~~

~~(ii) — The first mortgage loan business.~~

~~(2) — In the case of a limited mortgage broker, the licensed individual has successfully completed during the annual renewal period at least 2 credit hours of continuing education programs which shall include 1 credit hour of Pennsylvania residential mortgage law, including the act and the Loan Interest and Protection Law and 1 credit hour from among one or more of the following subject areas:~~

~~(i) Business ethics.~~

~~(ii) Federal residential mortgage law, including the Real Estate Settlement Procedures Act, the Truth in Lending Act and the Equal Credit Opportunity Act.~~

~~(iii) The first mortgage loan business.~~

~~(b) — The continuing education requirements imposed by this chapter shall apply to all renewals of licenses except when an initial licensee has been licensed by the department for less than 6 months prior to its first annual renewal date, in which case the licensee shall be in compliance with this chapter within 6 months after its first annual renewal date for less than 3 months prior to the licensee's first annual renewal date.~~

~~(c) — A mortgage professional who acts as an instructor shall be credited with 2 credit hours of continuing education for every 1 credit hour taught per annual renewal period.~~

~~(d) — Continuing education program credit hours earned in excess of the minimum requirement established by this section during any annual renewal period may not be carried over to a successive annual renewal period.~~

(a) In order to qualify for a license, an applicant shall demonstrate to the satisfaction of the department that:

(1) In the case of a mortgage originator license applicant, the applicant has successfully completed at least 12 credit hours of education programs as delineated by subsection (b); or

(2) In the case of any other license applicant:

(i) An individual who is a director, partner or ultimate equitable owner of 10% or more of an applicant has successfully completed at least 12 credit hours of education programs as delineated by subsection (b).

(ii) All of the mortgage originators to be employed by the applicant have successfully completed at least 12 credit hours of education programs as delineated by subsection (b).

(b) The 12 credit hours of education programs required by subsection (a) shall consist of 2 credit hours of Pennsylvania residential mortgage law, including the act and the Loan Interest and Protection Law (41 P. S. §§ 101--605), 1 credit hour of business ethics and 9 credit hours from among one or more of the following subject areas:

(1) Federal residential mortgage law, including the Real Estate Settlement Procedures Act (12 U.S.C. §§ 2601--2617), the Truth in Lending Act (15 U.S.C. §§ 1601--1667e) and the Equal Credit Opportunity Act (15 U.S.C. §§ 1691--1691f).

(2) The mortgage loan business.

(c) Testing components of the education programs required by subsection (a) shall address the subjects delineated by subsection (b).

(d) Other than the two credit hours of Pennsylvania residential mortgage law education programs delineated by subsection (b) and the testing requirements set forth in subsection (c), education credit hours and testing completed pursuant to another state mortgage regulator's requirements will be accepted by the department as fulfilling the requirements of this section, subject to the following conditions:

(1) The education credit hours have been approved by another state mortgage regulator or the Nationwide Mortgage Licensing System and Registry; and

(2) The education credit hours have been successfully completed within the 12 months immediately preceding the date of the submission of the applicant's license application.

**§ 44.2a. Requirements for licensee continuing education.**

(a) Except as provided in subsections (c), in order to renew a license, a licensee shall demonstrate to the satisfaction of the department that:

(1) In the case of a mortgage originator, the licensee has successfully completed at least 6 credit hours of education programs during the annual renewal period immediately preceding each annual renewal date; or

(2) In the case of any other licensee:

(i) At least one individual at each licensed office who is not licensed as a mortgage originator has successfully completed at least 6 credit hours of education programs delineated by subsection (b) during the annual renewal period immediately preceding each annual renewal date, unless all of the non-clerical staff of a particular licensed office are licensed as mortgage originators; and

(ii) All of the mortgage originators employed by the licensee have successfully completed the education programs as delineated by subsection (b).

(b) The 6 credit hours of education programs required by subsection (a) shall consist of 1 credit hour of Pennsylvania residential mortgage law, including the act and the Loan Interest and Protection Law (41 P. S. §§ 101--605), 1 credit hour of business ethics and 4 credit hours from among one or more of the following subject areas:

(1) Federal residential mortgage law, including the Real Estate Settlement Procedures Act (12 U.S.C. §§ 2601--2617), the Truth in Lending Act (15 U.S.C. §§ 1601--1667e) and the Equal Credit Opportunity Act (15 U.S.C. §§ 1691--1691f).

(2) The mortgage loan business.

(c) The education requirements imposed by this chapter are waived for the first annual renewal period for licensees that received an initial license from the department less than 2 months prior to the licensee's first annual renewal date.

(d) Education program credit hours earned in excess of the minimum requirement established by this section during any annual renewal period may not be carried over to a successive annual renewal period.

(e) Other than the credit hour of Pennsylvania residential mortgage law delineated by subsection (b), education credit hours completed pursuant to another state mortgage regulator's requirements will be accepted by the department as fulfilling the requirements of this section, subject to the following conditions:

(1) The education credit hours have been approved by another state mortgage regulator or the Nationwide Mortgage Licensing System and Registry; and

(2) The education credit hours have been completed during the annual renewal period.

#### **§ 44.3. Reporting, verification and recordkeeping.**

(a) ~~Except as provided in § 44.2(b) (relating to requirements), a licensee shall include as part of its renewal application a statement that the requirements of this chapter have been completed by at least one separate mortgage professional at each licensed office, or in the case of a limited mortgage broker, by the licensed individual. The statement shall include a list of continuing education programs completed by the designated mortgage professional for each licensed office or the individual limited mortgage broker licensee. The list shall include:~~

~~(1) — The name of continuing education providers.~~

~~(2) — The name of continuing education programs.~~

~~(3) — The number of credit hours attended by the mortgage professional.~~

~~(4) — The locations and dates attended.~~

Applicants and licensees shall provide evidence of the completion of the requirements of this chapter on a form prescribed by the Department.

(b) The department may verify satisfactory completion of the requirements of this chapter by methods including examination of the licensee pursuant to its authority under 7 Pa.C.S. § 6138(a)(1).

(c) The department may assess licensees ~~examination~~ the costs of verifying a licensee's compliance with this chapter pursuant to its authority under 7 Pa.C.S. § 6138(a)(1).

(d) A licensee shall retain all original documents relating to the successful completion of each continuing education program by each mortgage professional the licensee for the 4 annual renewal periods immediately following the annual renewal period during which the licensee successfully completed the education program.

#### **§ 44.4. Review and approval of education programs.**

(a) The department will have the sole authority to approve or deny continuing education programs. The department may ~~does~~ not approve or endorse continuing education providers.

(a.1) Education programs that are approved by another state mortgage regulator or the National Mortgage Licensing System and Registry and do not relate to Pennsylvania residential mortgage law are deemed approved by the department.

(b) A prospective continuing education provider may apply for continuing education program approval on an application provided by the Department. The application shall be submitted to the department at least ~~90~~ 60 days prior to the first date of the annual renewal period in which that the proposed continuing education program is proposed to will be offered. The ~~applicant~~ prospective education provider shall attach:

- (1) An outline of the proposed continuing education program, and the method of instruction and testing, either in-person or through interactive technology.
- (2) A resume detailing each proposed instructor's qualifications.
- (3) Other information that the department may require.

(c) The proposed continuing education program is required to satisfy the following criteria to be considered. The program shall be:

- (1) A formal program of learning and testing which contributes directly to the professional competence of a ~~mortgage professional~~ an applicant, licensee or individual to engage in the ~~first~~ mortgage loan business.
- (2) At least 1 credit hour.
- (3) Conducted by one or more individuals qualified to be an instructor. The following individuals are not qualified to be an instructor, unless the department determines otherwise:

(i) An individual who has had his license suspended or revoked by the Department.

(ii) An individual who has been the owner, director, member, partner or officer of a licensee that has had its license suspended or revoked by the Department.

(iii) An individual who has been a party, or who has been the owner, director, member, partner or officer of a licensee which has been a party to a department order or agreement prohibiting the individual from engaging in the first mortgage loan business in this Commonwealth or acting in any other capacity related to activities regulated by the Department.

(iv) An individual who has pled guilty, been convicted of or pled nolo contendere to a crime of moral turpitude or felony.

(c.1) The department shall be notified in writing at least 10 days prior to any change in instructors. Any new instructor is subject to the criteria contained in subsection (c)(3).

(c.2) A licensee or individual who acts as an instructor shall be credited with 2 credit hours of education for every 1 credit hour taught per annual renewal period.

(c.3) Education programs offered solely to satisfy the requirements of § 44.2a (relating to requirements for licensee continuing education) are not required to include a testing component.

(d) The department will have ~~60~~ 45 days from receipt of a completed application to approve or deny the proposed ~~continuing~~ education program. An application will be deemed completed when the requirements of subsections (b) and (c) have been fulfilled. If the department fails to approve or deny an application submitted by a prospective ~~continuing~~ education provider within ~~60~~ 45 days of its receipt, the ~~continuing~~ education program will be deemed approved by the Department. The department may deny an application submitted by a prospective ~~continuing~~ education provider if the ~~continuing~~ education program or provider fails to satisfy any of the conditions or requirements contained in this chapter or the act.

(e) Approval of an ~~continuing~~ education program by the department is valid for 1 annual renewal period and does not constitute permanent approval of the ~~continuing~~ education program.

(f) ~~Continuing~~ Education providers shall provide free access to department personnel to monitor their ~~continuing~~ education programs. In order to ensure the department's access to education programs, education providers shall provide the

department with notification of the date, time, and location of each education program that is offered by the education provider during the annual renewal period.

(g) ~~Continuing e~~Education providers shall retain original records of attendance for each ~~continuing~~ education program conducted by the ~~continuing~~ education provider for the 4 annual renewal periods immediately following the annual renewal period during which the education program was conducted and shall provide the department access to the records upon request.

#### **§ 44.5. Enforcement.**

(a) ~~The department may levy a fine of up to \$2,000 for each offense under section 314(e) of the act (63 P. S. § 456.314(e)) or suspend, revoke or refuse to renew a license under section 313(a) of the act (63 P. S. § 456.313(a)), if a licensee fails to comply with any requirement of this chapter~~ Violations of the provisions of this chapter shall be violations of the act.

(b) The department may revoke its approval of an ~~continuing~~ education provider's ~~continuing~~ education program if the ~~continuing~~ education provider fails to comply with any requirement of this chapter or the act.

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT**

I.D. NUMBER: 3-44  
 SUBJECT: MORTGAGE LICENSEE EDUCATION  
 AGENCY: DEPARTMENT OF BANKING

**TYPE OF REGULATION**

- X Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
  - a. With Revisions
  - b. Without Revisions

INDEPENDENT REGULATORY  
REVIEW COMMISSION

2009 MAY 27 PM 1:45

RECEIVED

**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
5-27-09	<u>Barbara Ramsey</u>	HOUSE COMMERCE COMMITTEE - <u>DICK HESS</u>
5-27-09	<u>Sandra Atland</u>	MAJORITY CHAIRMAN <u>HONORABLE PETER J. DALEY</u>
5-27-09	<u>[Signature]</u>	(Stack) SENATE COMMITTEE ON BANKING & INSURANCE
5-27-09	<u>[Signature]</u>	MAJORITY CHAIRMAN <u>HONORABLE DONALD C. WHITE</u>
5/27/09	<u>Kathy Coops</u>	INDEPENDENT REGULATORY REVIEW COMMISSION
	<u>[Signature]</u>	ATTORNEY GENERAL (for Final Omitted only)
5-27-09	<u>[Signature]</u>	LEGISLATIVE REFERENCE BUREAU (for Proposed only)