

TITLE 160. DEPARTMENT OF CONSUMER CREDIT
CHAPTER 55. MORTGAGE BROKERS, MORTGAGE LENDERS AND MORTGAGE
LOAN ORIGINATORS

[OAR Docket #14-609]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions

160:55-1-1 [AMENDED]

160:55-1-2 [AMENDED]

Subchapter 3. Licensing

160:55-3-1.1 [AMENDED]

160:55-3-3.1 [AMENDED]

160:55-3-4 [AMENDED]

160:55-3-8 [AMENDED]

160:55-3-9.1 [AMENDED]

160:55-3-12 [AMENDED]

160:55-3-13 [AMENDED]

Subchapter 7. Records

160:55-7-1 [AMENDED]

Subchapter 9. Enforcement

160:55-9-3 [AMENDED]

160:55-9-4 [AMENDED]

160:55-9-5 [AMENDED]

160:55-9-6 [AMENDED]

160:55-9-7 [AMENDED]

AUTHORITY:

Administrator of Consumer Credit; 59 O.S. §§ 2095.1(2), 2095.5(C), 2095.13 and 2095.14

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

January 8, 2014

COMMENT PERIOD:

February 3, 2014 to March 5, 2014

PUBLIC HEARING:

March 5, 2014

ADOPTION:

March 12, 2014

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

March 14, 2014

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 19, 2014

FINAL ADOPTION:

June 19, 2014

EFFECTIVE:

September 12, 2014

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATION BY REFERENCE:

n/a

ANALYSIS:

House Bill 1828 amended the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act (Oklahoma SAFE Act) and established a mortgage lender license, effective November 1, 2013. The rule amendments implement the mortgage licensing requirements for mortgage lenders established in House Bill 1828 by specifying that an application, bond, minimum net worth, criminal background checks of control persons and credit reports of control persons are required. A licensed mortgage loan originator must also be designated to oversee any activity of a mortgage lender that satisfies the definition of a mortgage broker as defined by the Oklahoma SAFE Act.

The rule amendments clarify that a mortgage loan originator designated to oversee mortgage loan origination activities for a mortgage broker or mortgage lender may not serve as the designated mortgage loan originator for any other mortgage broker, mortgage lender or branch office. The rule amendments also update references regarding the proper venue for administrative appeals and the requirements for orders issued by the Administrator.

A rule amendment establishes a process for a licensee to request an inactive license status in accordance with the Oklahoma SAFE Act. A rule amendment removes a requirement that licensees return a license to the Administrator upon notification of an address change or upon notification that a business location is closing.

Rule amendments also remove language regarding the failure of an applicant to provide information requested by the Administrator and language regarding the failure of an applicant to qualify for a license. The rule amendments include new provisions stating that if an applicant fails to provide the information requested by the Administrator, a failure to provide information as requested by the Administrator shall be deemed a withdrawal of an application.

A rule amendment specifies that mortgage loan originator license applicants must pass a qualified written test developed by the Nationwide Mortgage Licensing System and Registry (NMLS&R) in accordance with standards established by the Oklahoma SAFE Act. The

testing rule amendment will authorize the Administrator to adopt any qualified written test developed by NMLS&R in accordance with standards established by the Oklahoma SAFE Act.

CONTACT PERSON:

Roy John Martin, General Counsel, Department of Consumer Credit, 3613 N.W. 56th Street, Suite 240, Oklahoma City, OK 73112, 405-522-4665.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3 (5) AND 308 (E), WITH AN EFFECTIVE DATE OF SEPTEMBER 12, 2014:

SUBCHAPTER 1. GENERAL PROVISIONS

160:55-1-1. Purpose

The rules in this chapter provide regulations relating to the licensure of mortgage brokers, mortgage lenders and mortgage loan originators.

160:55-1-2. Definitions

Except as otherwise specifically defined in this section, the definitions set forth in the SAFE Act are incorporated herein and made a part hereof. The following words or terms, when used in this chapter, shall have the following meaning unless the context clearly indicates otherwise:

"**APA**" means the Administrative Procedures Act beginning at §250 of Title 75 of the Oklahoma Statutes.

"**Applicant**" means an entity or individual that has submitted an initial or renewal application for licensure as a mortgage broker, mortgage lender or mortgage loan originator.

"**Days**" mean calendar days. In computing any period of time for communications between a person and the Department or a court, the day of the event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a day that the licensed location, the Department or the office of the court clerk is closed.

"**Department**" means the Oklahoma State Department of Consumer Credit.

"**Deputy Administrator**" means the Deputy Administrator of the Department.

"**License**" means the instrument issued pursuant to the SAFE Act and these rules that is the sole authorization for an entity or individual to engage in mortgage business in the State of Oklahoma.

~~"**Mortgage business**" means the business of taking residential mortgage loan applications or offering, negotiating or modifying the terms of residential mortgage loans in the State of Oklahoma.~~ means activity that satisfies the definition of a mortgage broker, mortgage lender or mortgage loan originator as defined by the SAFE Act.

"**NMLS&R**" means the Nationwide Mortgage Licensing System and Registry.

"**RESPA**" means the Real Estate Settlement Procedures Act of 1974 beginning at §2601 of Title 12 of the United States Code.

"**SAFE Act**" means the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act beginning at §2095 of Title 59 of the Oklahoma Statutes.

SUBCHAPTER 3. LICENSING

160:55-3-1.1. Licensing requirements

(a) **Mortgage loan originator license.** The requirements for obtaining a mortgage loan originator license consist of the following:

(1) **Application.** The application shall be submitted through the NMLS&R Internet website. The Department's website shall include a link to the NMLS&R website.

(2) **Pre-licensing education.** Twenty (20) hours of pre-licensing education are required. Pre-licensing education courses and providers are reviewed and approved by NMLS&R. Information regarding pre-licensing education, including, but not limited to, approved courses, providers and scheduling is available from NMLS&R.

(3) **Testing.** ~~An applicant is required to pass a test. The test consists of two (2) parts, a national part and an Oklahoma part. A score of seventy five percent (75%) correct answers to questions is required on both parts to pass the test. The testing providers are selected by NMLS&R. The test is developed by testing providers selected by NMLS&R.~~ An applicant is required to pass a qualified written test developed by the NMLS&R in accordance with the standards established under 59 O.S. § 2095.9. The test is administered by a test provider approved by the

NMLS&R based upon reasonable standards. Information regarding the test is provided by NMLS&R, including but not limited to, approved testing providers, testing locations, study materials and test scheduling.

(4) **Background checks.** Applicants are required to pass a background check. The background check consists of the following:

(A) **Fingerprints.** An applicant is required to submit fingerprints to NMLS&R. Information regarding fingerprints is indicated on the NMLS&R website.

(B) **Applicants with felony convictions or pleas.** Applicants with felony convictions or applicants that have pled guilty or nolo contendere to a felony shall submit a certified copy of the indictment or other official court document indicating the criminal charges against the applicant and a certified copy of the final judgment and sentence of the court. Whether a particular crime is classified as a felony is determined by the law of the domestic, military or foreign court in which the applicant was convicted or in which the applicant pled guilty or nolo contendere to the felony. Domestic court includes any state or federal court of the United States of America. State court includes the courts of any state, territory, district, commonwealth or possession of the United States of America.

(C) **Credit reports.** An applicant is required to submit personal information to NMLS&R for the purpose of obtaining credit reports. The purpose of the credit reports is to determine the financial responsibility of an applicant.

(5) **Additional information.** The Administrator is authorized to require additional information from an applicant. Any additional information required by the Administrator shall be submitted to the Administrator. An applicant that fails to provide information as requested by the Administrator shall be deemed a withdrawal of the application.

(6) **Fees.** Payment of all required license fees shall be submitted through NMLS&R. Information regarding acceptable methods of payment is available on the NMLS&R website.

(7) **Results.** Test score results, verification of completion of pre-licensing education and background check information are submitted to the Administrator by NMLS&R. The Administrator reviews the information to determine if an applicant qualifies for licensure.

(b) **Mortgage broker license.** The requirements for obtaining a mortgage broker license consist of the following:

(1) **Application.** The application shall be submitted through the NMLS&R Internet website. The Department website shall include a link to the NMLS&R website.

(2) **Additional information.** The Administrator is authorized to require additional information from an applicant. Any additional information required by the Administrator shall be submitted to the Administrator. An applicant that fails to provide information as requested by the Administrator shall be deemed a withdrawal of the application.

(3) **Designation of mortgage loan originator.** An applicant shall designate a licensed mortgage loan originator to oversee the operations of the applicant. ~~An individual shall not serve as the designated mortgage loan originator for more than one (1) mortgage broker.~~ An individual designated to serve as the mortgage loan originator for a mortgage broker shall not serve as the designated mortgage loan originator for any other mortgage broker, mortgage lender or any branch office of the mortgage broker.

(4) **Officers, owners, directors and partners.** The application shall list each officer, owner, director or partner of the applicant. An officer, owner, director or partner of the applicant shall not act as a mortgage loan originator as defined by the SAFE Act unless each officer, owner, director or partner is licensed as a mortgage loan originator. Each officer, owner, director or partner of the applicant is required to pass a background check. The applicant shall submit the following information for each officer, owner, director or partner to NMLS&R:

(A) **Fingerprints.** Information regarding fingerprints is indicated on the NMLS&R website.

(B) **Felony convictions or pleas.** Any officer, owner, director or partner of a mortgage broker applicant with a felony conviction or that has pled guilty or nolo contendere to a felony shall submit a certified copy of the indictment or other official court document indicating the criminal charges against the applicant and a certified copy of the final judgment and sentence of the court. Whether a particular crime is classified as a felony is determined by the law of the domestic, military or foreign court in which the officer, owner, director or partner was convicted or in which the officer, owner, director or partner pled guilty or nolo contendere to the felony. Domestic court includes any state or federal court of the United States of America. State court includes the courts of any state, territory, district, commonwealth or possession of the United States of America.

(C) **Credit reports.** Each officer, owner, director or partner of a mortgage broker applicant is required to submit personal information to NMLS&R for purposes of obtaining credit reports for each officer, owner, director or partner of a mortgage broker applicant. The purpose of the credit reports is to determine the financial responsibility of each officer, owner, director or partner of a mortgage broker applicant.

(D) **Additional information.** The Administrator is authorized to require additional information from an applicant. Any additional information required by the Administrator shall be submitted to the Administrator. An applicant that fails to provide information as requested by the Administrator shall be deemed a withdrawal of the application.

(5) **Fees.** Payment of all required fees shall be submitted through NMLS&R. Information regarding acceptable methods of payment is available on the NMLS&R website.

(c) **Mortgage broker branch office license.** An applicant maintaining more than one location for the transaction of mortgage business shall obtain a branch office license for each location. The NMLS&R website provides information for obtaining branch office licenses.

(1) **Fees.** Payment of all required license fees shall be submitted through NMLS&R. Information regarding acceptable methods of payment is available on the NMLS&R website.

(2) **Designated loan originator.** Each mortgage broker branch office shall designate a licensed mortgage loan originator to oversee the operations of the mortgage broker branch office. An individual shall not serve as the designated mortgage loan originator for more than one (1) branch office.

(3) **Results.** The results of any information required for the application process are submitted to the Administrator by NMLS&R. The Administrator reviews the information to determine if an applicant qualifies for licensure.

(4) **Additional information.** The Administrator is authorized to require additional information from an applicant. Any additional information required by the Administrator shall be submitted to the Administrator. An applicant that fails to provide information as requested by the Administrator shall be deemed a withdrawal of the application.

(d) **Mortgage lender license.** The requirements for obtaining a mortgage lender license consist of the following:

(1) **Application.** The application shall be submitted through the NMLS&R Internet website. The Department website shall include a link to the NMLS&R website.

(2) **Bond.** The applicant shall file a One Hundred Thousand Dollar (\$100,000.00) bond that satisfies the requirements of 59 O.S. § 2095.11.1. The bond shall also secure the faithful performance of all duties and responsibilities of any branch office of the mortgage lender.

(3) **Net worth.** The applicant must have a minimum net worth of Twenty-Five Thousand Dollars (\$25,000.00) that is verified as required by 59 O.S. § 2095.11.1.

(4) **Designation of mortgage loan originator.** The applicant shall designate a licensed mortgage loan originator to oversee mortgage loan origination activities if the applicant engages in activity that satisfies the definition of a mortgage broker as defined by the SAFE Act. An individual designated as the mortgage loan originator for a mortgage lender shall not serve as the designated mortgage loan originator for any other mortgage lender, mortgage broker or any branch office of the mortgage lender.

(5) **Criminal background check.** Officers, owners, directors and partners, as applicable, shall submit fingerprints through NMLS&R for purposes of obtaining a criminal background check. Any officer, owner, director or partner of a mortgage lender applicant with a felony conviction or that has pled guilty or nolo contendere to a felony crime shall submit a certified copy of the indictment or other official court document indicating the criminal charges against the applicant and a certified copy of the final judgment and sentence of the court. Whether a particular crime is classified as a felony is determined by the law of the domestic, military or foreign court in which the officer, owner, director or partner was convicted or in which the officer, owner, director or partner pled guilty or nolo contendere to the felony crime. Domestic court includes any state or federal court of the United States of America. State court includes the courts of any state, territory, district, commonwealth or possession of the United States of America.

(6) **Financial responsibility.** Each officer, owner, director and partner, as applicable, must demonstrate financial responsibility. Each officer, owner, director and partner, as applicable, must submit personal information to NMLS&R for purposes of obtaining a credit report. The credit report will be utilized to determine the financial responsibility of each officer, owner, director and partner of the mortgage lender applicant, as applicable.

(7) **Fees.** Payment of all required fees shall be submitted through NMLS&R. Information regarding acceptable methods of payment is available on the NMLS&R website.

(8) **Additional information.** The Administrator is authorized to require additional information from an applicant. Any additional information required by the Administrator shall be submitted to the Administrator. An applicant that fails to provide information as requested by the Administrator shall be deemed a withdrawal of the application.

(d) **Mortgage lender branch office license.** A mortgage lender applicant that maintains more than one location for the transaction of business shall obtain a branch office license for each location. The requirements for obtaining a mortgage lender branch office license consist of the following:

(1) **Application.** The application shall be submitted through the NMLS&R Internet website. The Department website shall include a link to the NMLS&R website.

(2) **Fees.** Payment of all required fees shall be submitted through NMLS&R. Information regarding acceptable methods of payment is available on the NMLS&R website.

(3) **Designation of mortgage loan originator.** The applicant shall designate a licensed mortgage loan originator to oversee mortgage loan origination activities if the applicant engages in activity that satisfies the definition of a mortgage broker as defined by the SAFE Act. An individual designated to serve as the mortgage loan originator for a mortgage lender branch office shall not serve as the designated mortgage loan originator for any other mortgage lender, mortgage broker or any branch office of the mortgage lender.

(4) **Additional information.** The Administrator is authorized to require additional information from an applicant. Any additional information required by the Administrator shall be submitted to the Administrator. An applicant that fails to provide information as requested by the Administrator shall be deemed a withdrawal of the application.

160:55-3-3.1. License denials-Inactive status

(a) **Background and purpose.** The SAFE Act authorizes the Administrator of Consumer Credit to deny a mortgage broker or mortgage loan originator license or decline to renew a mortgage broker or mortgage loan originator license, after notice and hearing pursuant to Article II of the APA, for failing to meet the requirements of the SAFE Act or for withholding information in an application for a license or renewal of a license. [59:2095.17]. The purpose of this rule is to provide procedures for processing and denying applications for mortgage broker or mortgage loan originator licenses if an applicant fails to meet the requirements of the SAFE Act or withholds information in an application for a license or renewal of a license.

(b) **Notification procedures.**

(1) **General notification requirements.** The Department shall notify an applicant if the applicant fails to meet the requirements of the SAFE Act or if the applicant has withheld information regarding an application. The notification shall indicate the requirements of the SAFE Act the applicant has failed to meet or indicate the information that has been withheld from the application. The notification may be sent via certified mail, return receipt requested, courier service, electronic mail, facsimile or regular United States Mail. The applicant shall have thirty (30) days from the date notification is sent to respond to the notification.

(A) **Applicants failing to meet the requirements of the SAFE Act.** If an applicant has failed to meet the requirements of the SAFE Act for licensure, the applicant may withdraw an application by notification in writing to the Department within thirty(30) days from the date notification is sent from the Department. The applicant may request a refund of the license fee, which shall be refundable to the licensee upon request. If the applicant fails to request a withdrawal of the application within the required period of time, a Notice of Hearing shall be filed in accordance with Article II of the APA for denial of the license. License fees shall not be refundable if an application is denied after notice and hearing in accordance with Article II of the APA.

(B) **Applicants that have withheld information.** Applicants that have withheld information regarding an application shall have thirty (30) days from the date notification is sent from the Department to provide the withheld information. A Notice of Hearing shall be filed in accordance with Article II of the APA for denial of the license if an applicant fails to provide withheld information within the required period of time. License fees shall not be refundable if an application is denied after notice and hearing in accordance with Article II of the APA.

(c) **License fee.** For purposes of this section, license fee shall mean the initial and renewal license fee and shall not include an application fee or the fee paid into the Oklahoma Mortgage Broker and Mortgage Loan Originator Recovery Fund.

(a) **Renewal through NMLS&R.** A licensee that wishes to be placed on an inactive license status in accordance with the SAFE Act must renew the applicable license through NMLS&R and pay the required license renewal fees.

(b) **Notification to the Administrator.** After renewing the applicable license through NMLS&R, a licensee must notify the Administrator in writing of the inactive license status request. The Administrator shall place the applicable license on an inactive license status upon a request in writing and issue a refund for any license renewal fees paid in excess of the inactive license status fee.

160:55-3-4. Licensure periods

Any license issued during a year shall run only to December 31 of that year. A new license issued prior to November 1 shall be effective through December 31 of that year. A new license issued on or after November 1 shall be effective through December 31 of the following calendar year.

160:55-3-8. Mortgage broker and mortgage lender license changes

(a) **Notification.** At least thirty (30) days before any proposed change in ownership or any change in the officers, owners, directors, partners or the designated mortgage loan originator of a mortgage broker or mortgage lender, the mortgage broker or mortgage lender shall notify the Administrator of the proposed change by regular United States mail, electronic mail, facsimile or courier service. The mortgage broker or mortgage lender shall also contact the Administrator for instructions regarding the completion of necessary documentation to process the proposed change.

(b) **Required documentation and information.**

(1) **Change in ownership, officers, directors or partners.** A mortgage broker or mortgage lender with a proposed change of ownership or a proposed change of any officers, directors or partners shall submit the following information for each new proposed owner, officer, director or partner:

(A) Fingerprints.

(B) Personal information for obtaining credit reports.

(C) Any proposed officer, owner, director or partner that has a felony conviction or has pled guilty or nolo contendere to a felony shall submit a certified copy of the indictment or other official court document indicating the criminal charges against the applicant and a certified copy of the final judgment and sentence of the court. Whether a particular crime is classified as a felony is determined by the law of the domestic, military or foreign court in which the officer, owner, director or partner was convicted or in which the officer, owner, director or partner pled guilty or nolo contendere to the felony. Domestic court includes any state or federal court of the United States of America. State court includes the courts of any state, territory, district, commonwealth or possession of the United State of America.

(D) Any additional documentation required by the Administrator.

(2) **Change of designated mortgage loan originator.** A mortgage broker or mortgage lender with a proposed change for the designated mortgage loan originator shall submit to NMLS&R the name and license number or unique identifier issued by NMLS&R for the proposed, designated mortgage loan originator.

(c) **Proposed change involving fifty percent (50%) or more new owners, officers, directors or partners.** A mortgage broker or mortgage lender with a fifty percent (50%) or more proposed change in ownership, officers, directors or partners shall submit a new license application in accordance with the SAFE Act and rules promulgated by the Administrator.

160:55-3-9.1. Address changes and closing requirements

(a) At least thirty (30) days before the address of the principal place of business or the address of a branch office is changed, the mortgage broker or mortgage lender shall notify the Administrator through NMLS&R and pay the appropriate fee for an amended license. ~~The mortgage broker shall return the license to the Administrator along with an appropriate fee for an amended license.~~

(b) At least thirty (30) days before a location is to be closed, the mortgage broker or mortgage lender shall notify the Administrator through NMLS&R. ~~The mortgage broker shall return the license to the Administrator.~~

(c) A mortgage loan originator shall notify the Administrator through NMLS&R of any address change at least thirty (30) days prior to the change of their address of record and pay the appropriate fee for an amended license. ~~The mortgage loan originator shall return the license to the Administrator along with the appropriate fee for an amended license.~~

160:55-3-12. Standards for determining financial responsibility

(a) **Purpose.** Mortgage loan originator applicants and the owners, officers, directors and partners of mortgage broker and mortgage lender applicants must demonstrate financial responsibility pursuant to the SAFE Act and this rule. The SAFE Act authorizes the Administrator to deny license applications if an applicant for a mortgage loan originator license or if any owner, officer, director or partner of a mortgage broker or mortgage lender applicant has not demonstrated financial responsibility. The SAFE Act provides general guidelines for determining a failure to demonstrate financial responsibility, such as outstanding judgments, foreclosures, tax liens and a pattern of seriously delinquent accounts. The purpose of this rule is to establish specific criteria for determining when an applicant for a mortgage loan originator license or when any owners, officers, directors or partners of a mortgage broker or mortgage lender applicant have failed to demonstrate financial responsibility pursuant to the SAFE Act and this rule.

(b) **Standards demonstrating financial responsibility pursuant to the SAFE Act and this rule.**

(1) **Threshold ~~combined~~ credit score.** ~~A threshold credit score shall be set by the Administrator. The credit score of an applicant shall be the combined, average credit score of the applicant from the three (3) major credit reporting bureaus. A credit score for a mortgage loan originator applicant or an owner, officer, director and partner of an applicable mortgage broker or mortgage lender applicant is provided by the credit reporting bureau utilized by the NMLS&R. The Administrator shall set a threshold credit score to assist in the determination of financial~~

responsibility. The Administrator shall publish the threshold credit score on the Department website. The Administrator may adjust the threshold credit score as necessary. Any adjustments to the threshold credit score shall be published on the Department website.

(2) **Mortgage loan originators.** If an applicant's credit score equals or exceeds the threshold credit score, the applicant shall be deemed to have demonstrated financial responsibility pursuant to the SAFE Act and this rule. If the credit score of an applicant is less than the threshold credit score, the Administrator shall review the credit ~~reports~~report of the applicant provided by NMLS&R for any current outstanding judgments (excluding judgments solely as a result of medical expenses) current outstanding tax liens or other government liens and filings, foreclosures within the past three (3) years and seriously delinquent accounts within the past three (3) years to determine if the applicant demonstrates financial responsibility pursuant to the SAFE Act and this rule.

(3) **Mortgage brokers and mortgage lenders.** If the credit score of all of the owners, officers, directors or partners of the mortgage broker or mortgage lender applicant equals or exceeds the threshold credit score, the mortgage broker or mortgage lender applicant shall be deemed to have demonstrated financial responsibility pursuant to the SAFE Act and this rule. If the credit score of any of the owners, officers, directors or partners of the mortgage broker or mortgage lender applicant is less than the threshold credit score, the Administrator shall review the credit reports of the owners, officers, directors or partners of the mortgage broker or mortgage lender applicant with a credit score that is less than the threshold credit score for any current outstanding judgments, excluding judgments solely as a result of medical expenses, current outstanding tax liens or other government liens and filings, foreclosures within the past three (3) years and seriously delinquent accounts within the past three (3) years of such owner, officer, director or partner to determine if the mortgage broker or mortgage lender applicant demonstrates financial responsibility pursuant to the SAFE Act and this rule.

160:55-3-13. Challenging information entered into NMLS&R

(a) **Purpose.** This rule establishes a process for mortgage brokers, mortgage lenders and mortgage loan originators to challenge information entered into NMLS&R by the Administrator. A process for challenging information entered into NMLS&R is required by the SAFE Act.

(b) ~~Process.~~ **Process.** A mortgage broker, mortgage lender or mortgage loan originator shall comply with the following procedures to challenge information entered into NMLS&R by the Administrator:

(1) A mortgage broker, mortgage lender or mortgage loan originator shall submit written notification to the Administrator indicating the mortgage broker, mortgage lender or mortgage loan originator is challenging information entered into NMLS&R by the Administrator concerning the mortgage broker, mortgage lender or mortgage loan originator.

(2) The written notification may be submitted by electronic mail, facsimile, United States Mail or courier service. The Administrator may require a different method of notification if the method of notification utilized by a mortgage broker, mortgage lender or mortgage loan originator is illegible or is unable to be viewed by the Administrator. The Administrator may notify a mortgage broker, mortgage lender or mortgage loan originator that a different method of notification must be utilized via electronic mail, facsimile, United States Mail or courier service.

(3) Written notification shall indicate the information being challenged.

(4) Written notification shall include documentation substantiating the challenge.

(5) Written notification shall include the unique identifier of the mortgage broker, mortgage lender or mortgage loan originator.

(c) **Decision of Administrator.**

(1) The Administrator shall notify the mortgage broker, mortgage lender or mortgage loan originator of the decision concerning the challenge.

(2) The decision of the Administrator shall be in writing and shall state the action taken by the Administrator in response to the challenge of the mortgage broker, mortgage lender or mortgage loan originator.

(3) The decision of the Administrator may be submitted to the mortgage broker, mortgage lender or mortgage loan originator by certified United States Mail, return receipt requested, electronic mail, facsimile, courier service or regular United States mail.

(d) **Hearing.**

(1) Within thirty (30) days after notification of the decision is sent, the mortgage broker, mortgage lender or mortgage loan originator may request a hearing concerning an adverse decision of the Administrator regarding the challenge of the mortgage broker, mortgage lender or mortgage loan originator.

(2) A mortgage broker or mortgage loan originator shall request a hearing in writing via electronic mail, facsimile, United States mail or courier service. The request shall be directed to the Administrator.

- (3) A hearing shall be conducted in accordance with Article II of the APA and the SAFE Act.
(4) The Administrator shall issue a final order concerning the challenge as required by the APA.

SUBCHAPTER 7. RECORDS

160:55-7-1. Records and changes

- (a) **Records.** Each licensee's records shall be maintained in compliance with the SAFE Act and these rules.
- (1) **Transaction journal.** As part of the books and records related to their mortgage business, each licensee shall maintain a transaction journal that discloses the consumer's full name, date of loan, loan account number, name of lender and address of lender.
- (2) **Retention.** Mortgage brokers, mortgage lenders and mortgage loan originators shall preserve and make available such books and records related to their mortgage business for four (4) years from the date of the initial transaction between the ~~person~~ licensee and each borrower, or for two (2) years from the date of the final entry into such records is made thereon, whichever is later. Trust account records shall be preserved and made available for at least three (3) years after the date of final entries therein. The records shall be maintained for such time periods whether the person is currently licensed or previously licensed.
- (3) **Location.** Records shall be maintained at a designated location or maintained in an electronic format. Licensees shall designate in writing to the Administrator whether records are maintained at a physical location or maintained in an electronic format. The Administrator may require a ~~mortgage broker~~ licensee or any entity or individual subject to the SAFE Act to submit records via electronic mail or certified mail, return receipt requested, to the Administrator for purposes of reviewing a complaint or for conducting an examination.
- (b) **Changes.** Each ~~person~~ licensee shall keep current the information required for licensing by reporting any changes or additions to the information previously submitted through NMLS&R within thirty (30) days of such change or addition unless the SAFE Act or these rules require otherwise.

SUBCHAPTER 9. ENFORCEMENT

160:55-9-3. License surrender

~~Any person~~ A licensee may surrender any license by submitting notification to NMLS&R and delivering it to the license to the Administrator ~~with written notice of its surrender~~. Such surrender shall not affect the liability of the ~~person~~ licensee for acts committed before the surrender of the license. A surrender shall not impair or affect the obligation of any preexisting lawful contract between the ~~person~~ licensee and any borrower.

160:55-9-4. License reinstatement

The Administrator may reinstate suspended licenses or issue new licenses to ~~a person~~ an entity or individual whose license or licenses have been revoked if the Administrator finds that the ~~person~~ entity or individual meets the licensing requirements then in effect and if the Administrator finds the circumstances for which the license was suspended or revoked no longer exists.

160:55-9-5. Hearing procedure-emergency actions

- (a) **Hearing notice.**
- (1) If the public health, safety, or welfare imperatively requires emergency action, such action, including the suspension of a license instant or a cease and desist instant, may be ordered pending the final outcome of proceedings instituted by the Administrator [75:314(C)(2) and 314.1]. ~~In such cases, the Administrator shall notify the party of such action by certified mail with return receipt requested or personal delivery, and shall include in such notice an order of hearing. The hearing shall be held within ten (10) days of the notice unless postponed by written agreement between the party and the Administrator. An emergency order shall include an order for a hearing as required by administrative rule 160:3-1-4(j) and shall also be served as provided by administrative rule 160:3-1-4(j).~~
- (2) The notice shall:
- (A) state the time, place and nature of the hearing;
 - (B) state the legal authority and jurisdiction for the hearing;
 - (C) refer to the statutory sections and rules involved; and
 - (D) state the matters asserted briefly and plainly [75:309(B)(1) - (4)].
- (b) **Hearing.** All parties shall be afforded the opportunity to respond and present evidence and argument on all points at issue [75:309(C)], and shall have the right to counsel [75:310(5)].
- (c) **Standard of proof.** The standard of proof is clear-and-convincing evidence. Clear and convincing evidence is that measure or degree of proof which will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegation sought to be established.
- (d) **Order.**

(1) The Administrator shall issue an order ~~within thirty (30) days from the last day of the hearing unless the period is extended by written agreement between the party and the Administrator.~~ in accordance with administrative rule 160:3-1-4(i).

(2) The order shall:

(A) be in writing;

(B) state findings of fact that shall be limited to the evidence from the hearing unless the parties agree otherwise on the record;

(C) state conclusions of law;

(D) state the effective date; and

(E) be delivered in person or by certified mail with return receipt requested [75:309(H) and 312].

160:55-9-6. Circumvention prohibited

Whenever a ~~person~~ licensee has an administrative action taken against a license, the Administrator may deny ~~the person's~~ request to inactivate such license, to sell or transfer the accounts under such license or to take any other action to circumvent or negate the administrative action during the time of the action or during the pendency of the action if on appeal.

160:55-9-7. Review of an order

(a) **Rehearing, reopening or reconsideration.**

(1) **Application.**

(A) Any party aggrieved by a final order may apply for a rehearing, reopening or reconsideration within ten (10) days from the date of the order [75:317(A)].

(B) The application shall be in writing and assert a statutory ground for a rehearing, reopening or reconsideration.

(C) The statutory grounds are:

(i) newly discovered or newly available evidence, relevant to the issues;

(ii) need for additional evidence adequately to develop the facts essential to proper decision;

(iii) probable error committed by the Department in the proceeding or in the decision such as would be ground for reversal on judicial review of the order;

(iv) need for further consideration of the issues and the evidence in the public interest; or

(v) a showing that issues not previously considered ought to be examined in order properly to dispose of the matter [75:317(A)(1) - (5)].

(2) **Applicable order.**

(A) The Administrator shall issue an order granting or denying the rehearing, reopening or reconsideration within thirty (30) days from receipt of the application unless the period is extended by written agreement between the party and the Administrator.

(B) If the application is granted, the order shall set forth the grounds that justify it [75:317(B)].

(3) **Hearing.**

(A) If the rehearing, reopening or reconsideration is granted, the hearing shall be limited to the ground or grounds upon which it was ordered [75:317(D)].

(B) All parties shall be afforded the opportunity to respond and present evidence and argument on all points at issue [75:309(C)], and shall have the right to counsel [75:310(5)].

(4) **Rehearing order.**

(A) The Administrator shall issue an order from the rehearing, reopening or reconsideration within ~~sixty (60) days~~ reasonable period of time from the last day of the hearing unless the period is extended by written agreement between the party and the Administrator.

(B) The order shall:

(i) be in writing;

(ii) state findings of fact that shall be limited to the evidence from the hearing unless the parties agree otherwise on the record;

(iii) state conclusions of law;

(iv) state the effective date; and

(v) be delivered in person or by certified mail with return receipt requested [75:309(H) and 312].

(5) **Tolling.** The period for judicial review shall run from the day the party is notified of the final disposition of the application if the application was filed timely [75:317(E)].

(6) **Prerequisite.** An application shall not be a prerequisite to secure judicial review [75:318(A)(3)].

(b) **District Court.**

(1) **Petition.**

(A) ~~Any party aggrieved by a final order may file a petition in the district court of the party's resident county or the situs county of the property interest within thirty (30) days from the day the party is notified of the order [75:318(B)(2)].~~ Any person aggrieved by a final agency order of the Administrator may obtain judicial review in accordance with the Oklahoma Administrative Procedures Act. The venue of any such action shall be in the district court of Oklahoma County.

(B) The petition shall be served upon the Department and all other parties of record, and proof of service shall be filed in the court within ten (10) days after the petition is filed [75:318(C)].

(2) **Stay.** The filing of a proceeding for review shall not automatically stay the final order, but the Department may stay the order or the court may or shall impose a stay in accordance with the APA [75:319(1)].

(3) **Record.** The Department shall transmit the record of its proceeding to the court within thirty (30) days after the service of the petition unless the court has granted an extension [75:320].

(4) **Review scope.** The review shall be confined to the record and done by the court without a jury [75:321].

(5) **Court order.** The court may affirm, set aside, modify, reverse or remand the agency order in accordance with the APA [75:322].

(c) **Supreme Court.** Any party aggrieved by a final judgment of a district court may appeal to the Supreme Court in the manner and time provided in civil actions [75:323].

[OAR Docket #14-609; filed 7-1-14]