



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2003 Wisconsin Act 260 [2003 Senate Bill 279]	Continuing Education for Loan Originators
2003 Acts: www.legis.state.wi.us/2003/data/acts/	Act Memos: www.legis.state.wi.us/lc/act_memo/act_memo.htm

LOAN ORIGINATOR QUALIFICATIONS

2003 Wisconsin Act 260 establishes competency examination and continuing education requirements for loan originators. A loan originator is generally a person who finds or negotiates a mortgage loan for or on behalf of a mortgage banker or mortgage broker. With certain exceptions, the bill requires a person applying for registration as a loan originator to pass an initial competency exam. The exam covers primary and subordinate mortgage financing transactions and the laws regulating mortgage bankers and mortgage brokers. In addition, to renew his or her registration, a loan originator must either complete 16 hours of education in mortgage financing transactions and the laws regulating mortgage bankers and mortgage brokers, or pass an exam demonstrating sufficient knowledge of those subjects.

The Act also creates a new type of loan originator called a loan solicitor. The definition of a loan solicitor is left to the Division of Banking in the Department of Financial Institutions (division), but must reflect the limited duties and activities of a loan solicitor. In addition, the division must promulgate rules that prescribe a separate examination and a separate continuing education curricula for loan solicitors. Both the examination and the curricula must reflect the loan solicitors' limited duties and activities.

The Act creates a loan originator council for the purpose of approving the program of continuing education and the content of the competency examinations. The division must establish, by rule, standards for the council to follow in approving the program of continuing education and the content of the competency examination.

The Act requires the employer of each applicant for registration as a loan originator to obtain and submit to the division a criminal history search. The division may not issue or renew a registration if the results of the search indicate that the applicant has been convicted of a felony and, as a result of the

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents.

conviction, represents an unreasonable risk of violating the subchapter of the statutes that generally governs mortgage bankers, mortgage brokers, and loan originators.

REGULATION OF CONSUMER BROKERAGE AGREEMENTS

Act 260 requires every brokerage agreement between a mortgage broker and a consumer to be in writing, in the form prescribed by rule of the division, and to contain all information required by rule of the division. The division must promulgate these rules, in consultation with the loan originator council, for the purpose of facilitating the comparison of similar charges and total charges assessed by different mortgage brokers. Under the Act, a mortgage broker must give a consumer a disclosure statement that contains a brief explanation of the relationship between the consumer and the mortgage broker under the brokerage agreement, the manner in which the mortgage broker may be compensated, and any additional information required by rule of the division. The mortgage broker must explain the content of the disclosure statement and ensure that the consumer initials or signs the statement, acknowledging that the consumer has read and understands the statement.

PENALTIES AND LIMITATIONS ON LIABILITY

This Act raises the maximum potential forfeiture for certain violations of the mortgage banking and mortgage brokering laws from \$1,000 to \$2,000 and increases the maximum potential liability for these violations in certain private causes of action from \$1,000 to \$2,000. The Act also raises the maximum potential fine and imprisonment for violating a registration requirement under the mortgage banking and mortgage brokering laws from \$1,000 and six months to \$2,000 and nine months.

Effective Date and Initial Applicability: The effective date for 2003 Wisconsin Act 260 is April 30, 2004. The provisions of the Act that require an initial competency exam first apply to applications that are pending with the division as of July 2, 2005. The provisions of the Act that require continuing education first apply to renewals for the registration period beginning July 1, 2007.

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