

REFERENCE TITLE: loan originator registration

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

SB 1504

Introduced by
Senators Gorman: Blendu; Representative Nichols

AN ACT

AMENDING TITLE 6, CHAPTER 9, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 4;
MAKING AN APPROPRIATION; RELATING TO LOAN ORIGINATORS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 6, chapter 9, Arizona Revised Statutes, is amended by
3 adding article 4, to read:

4 ARTICLE 4. LOAN ORIGINATORS

5 6-991. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "LOAN ORIGINATOR":

8 (a) MEANS A NATURAL PERSON EMPLOYED BY A MORTGAGE BROKER OR MORTGAGE
9 BANKER WHO EITHER TAKES A RESIDENTIAL MORTGAGE LOAN APPLICATION FOR A
10 MORTGAGE BROKER OR MORTGAGE BANKER TO OBTAIN A THIRD PARTY LENDER OR OFFERS
11 OR NEGOTIATES TERMS OF A MORTGAGE LOAN FOR DIRECT OR INDIRECT COMPENSATION OR
12 GAIN OR IN THE EXPECTATION OF DIRECT OR INDIRECT COMPENSATION OR GAIN.

13 (b) INCLUDES A PERSON WHO HOLDS HIMSELF OUT TO THE PUBLIC AS ABLE TO
14 PERFORM ANY OF THE ACTIVITIES PRESCRIBED IN SUBDIVISION (a).

15 (c) DOES NOT MEAN A PERSON PERFORMING PURELY ADMINISTRATIVE OR
16 CLERICAL TASKS AND WHO IS EMPLOYED BY A MORTGAGE BROKER OR MORTGAGE BANKER.

17 2. "MORTGAGE BANKER" MEANS A PERSON WHO IS LICENSED PURSUANT TO
18 ARTICLE 2 OF THIS CHAPTER.

19 3. "MORTGAGE BROKER" MEANS A PERSON WHO IS LICENSED PURSUANT TO
20 ARTICLE 1 OF THIS CHAPTER.

21 4. "MORTGAGE LOAN" MEANS A LOAN SECURED BY A MORTGAGE OR DEED OF TRUST
22 OR ANY LIEN INTEREST ON REAL ESTATE LOCATED IN THIS STATE CREATED WITH THE
23 CONSENT OF THE OWNER OF THE REAL ESTATE.

24 6-992. Voluntary registration; list of registrants;
25 fingerprints

26 A. A LOAN ORIGINATOR MAY REGISTER WITH THE SECRETARY OF STATE. THE
27 SECRETARY OF STATE SHALL MAINTAIN A LIST OF ALL REGISTRANTS UNDER THIS
28 SECTION. THE LIST IS A PUBLIC RECORD AND SHALL BE MAINTAINED ON THE
29 SECRETARY OF STATE'S WEBSITE. IN ADDITION, THE LIST MAY BE REQUESTED IN
30 PERSON OR IN WRITING BY MAIL. THE SECRETARY OF STATE MAY PRESCRIBE FORMS
31 NECESSARY FOR THE ADMINISTRATION OF THIS SECTION.

32 B. EVERY LOAN ORIGINATOR THAT REGISTERS UNDER THIS SECTION SHALL
33 PROVIDE THE SECRETARY OF STATE THE FOLLOWING:

34 1. THE NAME OR NAMES UNDER WHICH THE LOAN ORIGINATOR CONDUCTS
35 BUSINESS.

36 2. THE ADDRESS OF THE PRINCIPAL PLACE OF BUSINESS OF THE LOAN
37 ORIGINATOR AND THE ADDRESS OF EACH OFFICE THAT THE LOAN ORIGINATOR MAINTAINS
38 IN THIS STATE.

39 3. THE LOAN ORIGINATOR'S TAXPAYER NUMBER.

40 4. A LIST BY STATE OF EACH NAME UNDER WHICH THE LOAN ORIGINATOR HAS
41 OPERATED IN THE PRECEDING TEN YEARS, INCLUDING ANY ALTERNATIVE NAMES.

42 5. A FULL SET OF FINGERPRINTS. THE SECRETARY OF STATE SHALL SUBMIT
43 THE FINGERPRINTS AND FEES TO THE DEPARTMENT OF PUBLIC SAFETY FOR THE PURPOSE
44 OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT TO SECTION

1 41-1750 AND PUBLIC LAW 92-544. THE DEPARTMENT OF PUBLIC SAFETY MAY EXCHANGE
2 THIS FINGERPRINT DATA WITH THE FEDERAL BUREAU OF INVESTIGATION.

3 6. A STATEMENT THAT THE LOAN ORIGINATOR HAS NOT BEEN CONVICTED OF ANY
4 CRIME RESULTING FROM A VIOLATION OF THIS TITLE.

5 C. THE SECRETARY OF STATE SHALL NOT REGISTER A LOAN ORIGINATOR IF THE
6 LOAN ORIGINATOR HAS BEEN CONVICTED OF ANY CRIME RESULTING FROM A VIOLATION OF
7 THIS TITLE. A LOAN ORIGINATOR MAY APPEAL THE DENIAL TO THE SUPERIOR COURT.

8 6-993. Schools; certificate of distinction

9 A. THE DEPARTMENT OF ADMINISTRATION SHALL APPROVE LOAN ORIGINATOR
10 SCHOOLS PURSUANT TO STANDARDS AND PROCEDURES APPROVED BY THE DEPARTMENT OF
11 ADMINISTRATION. THE SCHOOLS SHALL PROVIDE EDUCATION AND ETHICS CLASSES FOR
12 LOAN ORIGINATOR REGISTRANTS.

13 B. ON A LOAN ORIGINATOR'S SUCCESSFUL COMPLETION OF THE EDUCATION AND
14 ETHICS CLASSES, THE SCHOOL SHALL NOTIFY THE SECRETARY OF STATE WHO SHALL
15 ISSUE A CERTIFICATE OF DISTINCTION TO THE LOAN ORIGINATOR.

16 C. THE SECRETARY OF STATE SHALL MAINTAIN ON ITS WEBSITE A LIST OF LOAN
17 ORIGINATORS WHO HOLD CERTIFICATES OF DISTINCTION.

18 6-994. Financial institution education program; certificate of
19 distinction

20 IF THE SECRETARY OF STATE CERTIFIES THAT A FINANCIAL INSTITUTION HAS
21 ITS OWN EDUCATION PROGRAM FOR LOAN ORIGINATORS THAT IS EQUIVALENT TO OR
22 BETTER THAN THE SCHOOLS THAT ARE APPROVED PURSUANT TO SECTION 6-993, THE
23 SECRETARY OF STATE SHALL ISSUE A CERTIFICATE OF DISTINCTION TO A LOAN
24 ORIGINATOR WHO WORKS FOR THE FINANCIAL INSTITUTION AND WHO HAS COMPLETED THE
25 FINANCIAL INSTITUTION'S CERTIFIED EDUCATION PROGRAM IF THE LOAN ORIGINATOR IS
26 REGISTERED WITH THE SECRETARY OF STATE AND THE REGISTRATION APPLICATION WAS
27 ACCOMPANIED BY A VERIFIED LETTER FROM A FINANCIAL INSTITUTION WITH A
28 CERTIFIED LOAN ORIGINATOR EDUCATION PROGRAM STATING THAT THE LOAN ORIGINATOR
29 HAS SATISFIED THE EDUCATION REQUIREMENTS.

30 6-995. Title or designation; false representation;
31 classification

32 A. A LOAN ORIGINATOR WHO HOLDS A CERTIFICATE OF DISTINCTION MAY USE
33 THE TITLE OR DESIGNATION OF "CERTIFIED MORTGAGE CONSULTANT".

34 B. IF A PERSON FALSELY REPRESENTS THAT THE PERSON IS A REGISTERED LOAN
35 ORIGINATOR, A CERTIFICATE OF DISTINCTION HOLDER OR A CERTIFIED MORTGAGE
36 CONSULTANT, THE PERSON IS GUILTY OF A CLASS 6 FELONY.

37 6-996. Complaints; attorney general's office; rules;
38 information on website

39 A. A PERSON WHO IS WRONGED BY A VIOLATION OF THIS ARTICLE MAY FILE A
40 COMPLAINT WITH THE OFFICE OF THE ATTORNEY GENERAL REGARDING THE CONDUCT OF A
41 LOAN ORIGINATOR. THE ATTORNEY GENERAL SHALL ADOPT RULES TO ESTABLISH
42 PROCEDURES TO RECEIVE AND INVESTIGATE COMPLAINTS. THE RULES SHALL INCLUDE A
43 REQUIREMENT THAT IF THE ATTORNEY GENERAL RECEIVES A COMPLAINT, THE ATTORNEY
44 GENERAL MUST NOTIFY THE SUBJECT OF THE COMPLAINT THAT THE COMPLAINT WAS
45 RECEIVED.

1 B. THE ATTORNEY GENERAL MUST MAINTAIN THE COMPLAINT INFORMATION ON ITS
2 WEBSITE:

3 1. PERMANENTLY IF THE COMPLAINT IS ADJUDICATED AND WRONG DOING IS
4 DETERMINED ON THE PART OF THE LOAN ORIGINATOR.

5 2. FOR THREE YEARS IF THE COMPLAINT IS NOT SUBSTANTIATED.

6 Sec. 2. Appropriation; secretary of state; implementation of
7 loan originator registration

8 Notwithstanding section 6-135.01, subsection B, Arizona Revised
9 Statutes, the sum of \$10,000 is appropriated from the department receivership
10 revolving fund in fiscal year 2008-2009 to the secretary of state for the
11 costs of implementing title 6, chapter 9, article 4, Arizona Revised
12 Statutes, as added by this act.

13 Sec. 3. Effective date

14 This act is effective from and after December 31, 2008.