



## SAFE Act and SB 36 Frequently Asked Questions (FAQs)

### 1. What is a mortgage loan originator?

A mortgage loan originator (MLO) is an individual who, for compensation or gain, or in the expectation of compensation or gain, takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan.

### 2. What is a residential mortgage loan?

A residential mortgage loan is any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling, as defined in Section 103(v) of the federal Truth in Lending Act, or residential real estate upon which is constructed or intended to be constructed a dwelling. Dwelling means a residential structure that contains one to four units, whether or not that structure is attached to real property. The term includes an individual condominium unit, cooperative unit, mobilehome, or trailer, if it is used as a residence.

### 3. Why is a license required as a mortgage loan originator in California?

As of January 4, 2010 the Department of Corporations (DOC) began implementing [Senate Bill 36](#) bringing California into conformance with federal law established by the “Safe and Fair Enforcement (S.A.F.E.) for Mortgage Licensing Act of 2008.” A key part of the law is participation in the Nationwide Mortgage Licensing System that was developed by the Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators (AARMR).

### 4. Licensing information

All MLOs employed by finance lenders/brokers under the California Finance Lenders Law (CFLL) or residential mortgage lenders/servicers under the California Residential Mortgage Lending Act (CRMLA) must be licensed by July 31, 2010. MLOs may now apply for a license by submitting a Form MU4 to the California Department of Corporations (DOC) through the Nationwide Mortgage Licensing System ([NMLS](#)). Applications should be submitted by May 28, 2010 to allow processing time so the license can be issued by July 31, 2010. **All MLOs must be licensed by July 31, 2010.** The MLO license must be renewed each year between November 1 and December 31. MLOs must continue to meet all criminal, financial and background requirements at all times. FBI checks and credit checks may be required at renewal.

### 5. Transition to NMLS

All CRMLA licensees must request transition of their records, including all branches, to NMLS. The instructions for the transition of CRMLA licenses can be found on the [NMLS website](#). The transition request should be submitted to the DOC through NMLS by May 28, 2010 to allow time to complete the approval of the transition request and the approval of MLO licenses sponsored by the licensee. **All approvals must be completed by July 31, 2010.**

CFLL licensees who make and/or broker residential mortgage loans must request transition of their records, including all branches, to NMLS. The instructions for the transition of CFLL licenses can be found on the [NMLS website](#). The transition request should be submitted to the DOC through NMLS by May 28, 2010 to allow time to complete the approval of the transition request and the approval of MLO licenses sponsored by the licensee. **All approvals must be completed by July 31, 2010.** CFLL licensees who do not engage in the making or brokering of residential mortgage loans are not required to transition to NMLS.

## 6. What are the requirements to become licensed as a MLO?

MLOs must:

- file a Form MU4 to the DOC through NMLS;
- clear criminal, civil, and administrative records checks;
- complete 20 hours of pre-licensing education;
- pass the national and California components of the mortgage loan originator tests;
- be covered by the MLO employer's surety bond;
- authorize the DOC to obtain a credit report through NMLS; and
- be sponsored by a DOC licensee who has an approved license status in NMLS.

A MLO licensed by DOC must be employed by and sponsored by a DOC licensee under the CFLL or CRMLA in order to maintain a license in an active status. The MLO licensee will be approved with only one sponsor at a time. Any change in employment will require the MLO to terminate their relationship with one employer/sponsor in order to establish a sponsorship with a new employer. A new MLO license is not required.

## 7. Fees and payment

The application fees and assessments for CFLL and CRMLA licensees have not changed. The following fees have been implemented:

- MLO application fee if filed by March 31, 2010 \$0
- MLO application fee if filed after March 31, 2010 \$100
- Other DOC fees for MLOs TBD
- NMLS processing fee for MLO applications \$30
- NMLS fingerprint fees for MLO applicants \$39
- NMLS annual renewal fee for MLOs \$30
- NMLS sponsorship fee \$30
- NMLS company filing fee \$100
- NMLS company annual renewal fee \$100
- NMLS branch filing fee \$20
- NMLS branch annual renewal fee \$20

Applicants for a company, branch or MLO license must pay all fees to NMLS in order to file the application. Fees may be paid by credit card or ACH transfer. Fees may be paid by the MLO applicant or his/her employer/sponsor at the time of filing the application. All fees are non-refundable.

## 8. What are the education requirements?

MLO applicants must complete at least 20 hours of pre-licensing education including:

- 3 hours of federal law and regulations;
- 3 hours of ethics; and,
- 2 hours of lending standards for nontraditional mortgages.

To renew the license, MLOs must complete at least 8 hours of continuing education each year which must include:

- 3 hours of federal law and regulations,
- 2 hours of ethics; and,
- 2 hours of lending standards for nontraditional mortgages.

All education must be received from NMLS approved [course providers](#).

Will DOC certify compliance with education requirements?

The DOC, in conjunction with the DRE, will certify compliance with the pre-license education requirements for those applicants that apply only to the DOC for an MLO license. The certification will be that the pre-license education requirement has been satisfied based on the education completed to obtain their DRE license. To be eligible for this process the MLO applicant must:

- Only file an MLO license application with the DOC and hold an active or inactive California Real Estate License. The applicant must not have an MLO endorsement application pending with DRE.
- File an MLO license application (Form MU4) to DOC through NMLS no later than June 15, 2010.
- Submit a Request for Certification of Pre-License Education Requirements no later than June 15, 2010.
- Pay a system processing fee of \$15.00 to NMLS on or before November 30, 2010.

Mortgage loan originators who fail to file an MLO license application with the DOC or fail to submit the Request for Certification of Pre-License Education by June 15, 2010 will not have their pre-license education certified by DOC. Upon receipt of the Request for Certification of Pre-License Education Requirements, DOC will submit a list of DOC MLO applicants who are also active or inactive real estate licensees to NMLS on a continuing basis. NMLS will then send the MLO applicant an e-mail requesting that they log into the system and pay a system processing fee of \$15.00. Shortly after payment of the system processing fee to NMLS, the applicant's record will be updated to reflect compliance with the pre-license education requirements. **The pre-license education certification will not be made until the certification processing fee of \$15.00 is paid to NMLS. The MLO license will not be issued unless the pre-license education requirements are completed or certified in NMLS. MLOs employed by DOC licensees must be licensed by July 31, 2010.** If the certification processing fee is not paid on or before **November 30, 2010**, the state education courses will not be certified and the NMLS record will not be updated. In that case the applicant will need to complete 20 hours of NMLS approved education in order to satisfy the SAFE requirements. **Mortgage loan originators who have their pre-license education certified by DOC will be required to complete 8 hours of continuing education in order to renew their MLO license during November 1, 2010 to December 31, 2010 renewal period.**

## 9. What are the testing requirements?

You must receive passing scores on both the national and California state components of the SAFE tests. You may take the tests at any time, either together or at separate times. Both the national and California state components of the SAFE mortgage test are currently available. You may sign up for the [tests through NMLS](#). You are not required to complete your pre-licensing education requirements prior to taking either test. An individual who fails a test may retake the test up to 3 consecutive times with at least 30 days passing between each retesting. An applicant who fails 3 consecutive **retests** must wait at least 6 months before retesting.

## 10. What background checks are required?

MLOs applicants must submit fingerprint cards to NMLS for a FBI criminal background check (CBC) and authorize NMLS to obtain a credit report for review by the DOC.

A MLO license may be denied if:

- the applicant has had a mortgage loan originator license revoked in any governmental jurisdiction unless there was a subsequent formal vacation of the revocation;
- the applicant has been convicted of, or pled guilty or nolo contendere to a felony in a domestic, foreign or military court during the 7 year period preceding the date of the application
- the applicant has been convicted of, or pled nolo contendere to a felony at any time preceding the date of application if such felony involved an act of fraud, dishonesty or a breach of trust or money laundering;
- it is found that the individual is not financially responsible by showing a disregard in the management of his or her own financial condition; or
- the applicant's personal history includes:
  1. Any liens or judgments for fraud, misrepresentation, dishonest dealing, and/or mishandling of trust funds, or
  2. Other liens, judgments, or financial or professional conditions that indicate a pattern of dishonesty on the part of the applicant.

## 11. New bonding requirements

Effective July 31, 2010 CFLL lender and/or broker licensees who originate residential mortgage loans will be required to maintain a surety bond that covers the activities of the MLOs they employ. The bond amount will be based on the amount of origination activities conducted by the licensee. The surety bond amounts will be based on the aggregate dollar amount of residential mortgage loans originated by the licensee in the preceding year, as follows:

### Aggregate Loans Bond Amount

|                              |           |
|------------------------------|-----------|
| 0 - \$1,000,000              | \$25,000  |
| \$1,000,001 - \$50,000,000   | \$50,000  |
| \$50,000,001 - \$500,000,000 | \$100,000 |
| Over \$500,000,001           | \$200,000 |

Surety bonding requirements for CFLL licensees who do not originate residential mortgage loans will remain \$25,000.

Effective July 31, 2010 CRMLA licensees who make and/or service residential mortgage loans will be required to maintain a surety bond that covers the activities of the MLOs they employ. The bond amount will be based on the amount of origination and/or servicing activities conducted by the licensee in the preceding year, as follows:

Aggregate Loans Bond Amount

0 - \$50,000,000 \$50,000  
\$50,000,001 - \$500,000,000 \$100,000  
Over \$500,000,001 \$200,000

**12. New net worth requirements for CFLL licensees**

CFLL lenders and/or brokers who engage in residential mortgage lending and/or brokering must maintain minimum net worth of \$250,000. CFLL licensees who employ one or more MLOs must meet this requirement. Please see revised Financial Code Section 22104. (Revised effective October 2009 for mortgage loan originators). CFLL licensees who do not engage in the making or brokering of residential mortgage loans are not required to meet the increased net worth requirements.

**13. Can I find out the status of a loan originator's license on NMLS?**

Yes. The [public access](#) section of the NMLS website provides the current status of all MLO licenses