

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

House Bill 4285

**FISCAL
NOTE**

BY DELEGATES FRICH, WESTFALL, B. WHITE AND A.

EVANS

BY REQUEST OF THE DIVISION OF FINANCIAL INSTITUTIONS

[Introduced January 24, 2018; Referred
to the Committee on Banking and Insurance then
Finance.]

1 A Bill to amend and reenact §31-17A-4, §31-17A-6 and §31-17A-9 of the Code of West Virginia,
 2 1931, as amended, all relating to the licensing requirements of mortgage loan originators;
 3 increasing the number of hours of education required for licensure and to meet continuing
 4 education requirements; and increasing the licensure application fee.

Be it enacted by the Legislature of West Virginia:

ARTICLE 17A. WEST VIRGINIA SAFE MORTGAGE LICENSING ACT.

§31-17A-4. State license application and issuance.

1 (a) Applicants for a license must apply in a form as prescribed by the commissioner. Each
 2 form shall contain content as set forth by instruction or procedure of the commissioner and may
 3 be changed or updated as necessary by the commissioner in order to carry out the purposes of
 4 this article. The application must be submitted with an application fee of ~~\$50~~ \$200 plus the actual
 5 cost of fingerprint processing, together with any processing fee assessed by the Nationwide
 6 Mortgage Licensing System and Registry. The commissioner may elect to reduce or waive the
 7 application fees for mortgage loan originators employed by bona fide nonprofit organizations or
 8 other community housing development organizations that serve the housing needs of households
 9 or persons below the HUD-established median income for their area of residence. Any waiver of
 10 fees or other costs under this paragraph shall not be construed as a waiver of the duty to comply
 11 with all other provisions of this article.

12 (b) The commissioner is authorized to establish relationships or contracts with the
 13 Nationwide Mortgage Licensing System and Registry or other entities designated by the
 14 Nationwide Mortgage Licensing System and Registry to collect and maintain records and process
 15 transaction fees or other fees related to licensees or other persons subject to this article.

16 (c) In connection with an application for licensing as a mortgage loan originator, the
 17 applicant shall, at a minimum, furnish to the Nationwide Mortgage Licensing System and Registry
 18 information concerning the applicant's identity, including:

19 (1) Fingerprints for submission to the Federal Bureau of Investigation and any

20 governmental agency or entity authorized to receive such information for a state, national and
21 international criminal history background check; and

22 (2) Personal history and experience in a form prescribed by the Nationwide Mortgage
23 Licensing System and Registry and the commissioner, including the submission of authorization
24 for the Nationwide Mortgage Licensing System and Registry and the commissioner to obtain:

25 (A) An independent credit report obtained from a consumer reporting agency described in
26 Section 603(p) of the Fair Credit Reporting Act; and

27 (B) Information related to any administrative, civil or criminal findings by any governmental
28 jurisdiction.

29 (d) To reduce the points of contact which the Federal Bureau of Investigation may have to
30 maintain, the commissioner may use the Nationwide Mortgage Licensing System and Registry or
31 its designated vendor as a channeling agent for requesting information from and distributing
32 information to the Department of Justice or any governmental agency.

33 (e) To reduce the points of contact which the commissioner may have to maintain, the
34 commissioner may use the Nationwide Mortgage Licensing System and Registry as a channeling
35 agent for requesting and distributing information to and from any source so directed by the
36 commissioner.

37 (f) Nonresident mortgage loan originators licensed under this article by their acceptance
38 of the license acknowledge that they are subject to the jurisdiction of the courts of West Virginia
39 and the service of process pursuant to §46A-2-137 and §56-3-33 of this code.

40 (g) The commissioner may grant a provisional license to a mortgage loan originator who
41 has met all other requirements for licensing under this article but: (1) Has not passed a test
42 regarding West Virginia mortgage laws and regulations required for licensure: *Provided*, That the
43 provisionally licensed mortgage loan originator takes and passes that test within 60 days of the
44 test becoming available; or (2) for whom the commissioner has not received the results of a
45 criminal background check despite the good faith effort of the applicant to provide in a timely

46 manner the information necessary to obtain a criminal background check.

§31-17A-6. Prelicensing and relicensing education of loan originators.

1 (a) To meet the prelicensing education requirement, a person must complete at least
2 ~~twenty-two~~ 24 hours of education approved in accordance with subsection (b) of this section,
3 which shall include at least:

4 (1) Three hours of federal law and regulations;

5 (2) Three hours of ethics, which shall include instruction on fraud, consumer protection
6 and fair lending issues;

7 (3) Two hours of training related to lending standards for the nontraditional mortgage
8 product marketplace; and

9 (4) ~~Two~~ Four hours of training related to West Virginia mortgage and consumer laws or
10 issues.

11 (b) For purposes of subsection (a) of this section, prelicensing education courses shall be
12 reviewed and approved by the Nationwide Mortgage Licensing System and Registry or the
13 Division based upon reasonable standards. Review and approval of a prelicensing education
14 course shall include review and approval of the course provider.

15 (c) Nothing in this section precludes any prelicensing education course, as approved by
16 the Nationwide Mortgage Licensing System and Registry or the Division, that is provided by the
17 employer of the applicant or an entity which is affiliated with the applicant by an agency contract,
18 or any subsidiary or affiliate of such employer or entity.

19 (d) Prelicensing education may be offered either in a classroom, online or by any other
20 means approved by the Nationwide Mortgage Licensing System and Registry.

21 (e) The prelicensing education requirements approved by the Nationwide Mortgage
22 Licensing System and Registry or the Division in subdivisions (1), (2) and (3) subsection (a) of
23 this section for any state shall be accepted as credit towards completion of prelicensing education
24 requirements in West Virginia.

25 (f) A person previously licensed under this article subsequent to July 1, 2009, applying to
26 be licensed again must prove that they have completed all of the continuing education
27 requirements for the year in which the license was last held.

§31-17A-9. Continuing education for mortgage loan originators.

1 (a) To meet the annual continuing education requirements, a licensed mortgage loan
2 originator must complete at least ~~eight~~ nine hours of education approved in accordance with
3 subsection (b) of this section, which shall include at least:

4 (1) Three hours of federal law and regulations;

5 (2) Two hours of ethics, which shall include instruction on fraud, consumer protection and
6 fair lending issues;

7 (3) Two hours of training related to lending standards for the nontraditional mortgage
8 product marketplace; and

9 (4) ~~One hour~~ Two hours of West Virginia law or regulations.

10 (b) For purposes of subsection (a) of this section, continuing education courses shall be
11 reviewed and approved by the Nationwide Mortgage Licensing System and Registry or the
12 Division based upon reasonable standards. Review and approval of a continuing education
13 course shall include review and approval of the course provider.

14 (c) Nothing in this section precludes any education course, as approved by the Nationwide
15 Mortgage Licensing System and Registry, that is provided by the employer of the mortgage loan
16 originator or an entity which is affiliated with the mortgage loan originator by an agency contract,
17 or any subsidiary or affiliate of the employer or entity.

18 (d) Continuing education may be offered either in a classroom, online or by any other
19 means approved by the Nationwide Mortgage Licensing System and Registry.

20 (e) A licensed mortgage loan originator:

21 (1) Except for §31-17A-8(b) of this code and subsection (i) of this section, may only receive
22 credit for a continuing education course in the year in which the course is taken; and

23 (2) May not take the same approved course in the same or successive years to meet the
24 annual requirements for continuing education.

25 (f) A licensed mortgage loan originator who is an approved instructor of an approved
26 continuing education course may receive credit for the licensed mortgage loan originator's own
27 annual continuing education requirement at the rate of two hours credit for every one hour taught.

28 (g) A person having successfully completed the education requirements approved by the
29 Nationwide Mortgage Licensing System and Registry in subdivisions (1), (2) and (3), subsection
30 (a) of this section for any state shall be accepted as credit towards completion of continuing
31 education requirements in West Virginia.

32 (h) A licensed mortgage loan originator who subsequently becomes unlicensed must
33 complete the continuing education requirements for the last year in which the license was held
34 prior to issuance of a new or renewed license.

35 (i) A person meeting the renewal requirements of §31-17A-8(a)(1) and §31-17A-8(a)(3) of
36 this code may make up any deficiency in continuing education as established by the
37 commissioner.

NOTE: The purpose of this bill is to amend continuing educational requirements under the West Virginia Safe Mortgage Licensing Act. The bill modernizes and standardizes licensing requirements for mortgage loan originators to permit adoption of a uniform national test for licensing. It also increases the registration fee to fully cover the agency's administrative costs, and to align it with the fee being assessed by the majority of other states.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.