STATE OF MICHIGAN
DEPARTMENT OF ENERGY, LABOR AND ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE REGULATION

Bulletin 2010-17-CF

In the matter of:

Mortgage Loan Originator Company Surety Bond
______________________________________/

Issued and Entered
this 16th day of July 2010
by Ken Ross
Commissioner

Beginning July 31, 2010, the loan originator licensing requirements of the recently enacted Mortgage Loan Originator Licensing Act ("MLOLA"), 2009 PA 75, MCL 493.131 *et seq.*, become effective. Pursuant to the MLOLA, each mortgage loan originator that is not otherwise exempt, is required to obtain and maintain a license. As a condition to licensure, each loan originator is required to be bonded in an amount based upon a formula set forth in Section 29 of the MLOLA, MCL 493.159. This requirement may be satisfied by the loan originator applicant submitting an individual surety bond in the appropriate amount. In the alternative, the MLOLA also grants the Commissioner of the Office of Financial and Insurance Regulation ("Commissioner") the discretion and authority to accept a "company bond" from the employer of a loan originator in lieu of the individual surety bond requirement. In this case, the company surety bond will cover all of the company's loan originators and take the place of the individual surety bond.

The purpose of this bulletin is to explain the circumstances under which the Commissioner will accept a company surety bond in lieu of an individual bond and to provide instruction regarding the requirements of an acceptable company surety bond.

Authority Under the MLOLA

The Commissioner is statutorily charged with the responsibility and authority to implement and administer the MLOLA. Pursuant to, and consistent with, this statutory responsibility and authority, the Commissioner is authorized to prescribe the surety bond form(s) and to provide instructions for use of the prescribed form(s).

Section 29, MCL 493.159, of the MLOLA states:

> (1) Each mortgage loan originator must provide to the commissioner or be covered by a surety bond that meets the requirements of this section.

(2) If the mortgage loan originator is an employee or exclusive agent of a person subject to this act and that person has provided the commissioner with a surety bond that satisfies the requirements of this section, the commissioner may accept that surety bond in lieu of the mortgage loan originator's surety bond obligation under subsection (1).

(3) All of the following apply to a surety bond described in subsection (1) or (2):

(a) A surety bond described in subsection (2) must provide coverage for each mortgage loan originator covered by that bond in 1 of the following amounts:

(i) If the mortgage loan originator did not close any mortgage loans in the preceding calendar year, or the sum of the principal amounts of mortgage loans closed by the mortgage loan originator in the preceding calendar year is less than $12,000,000.00, as determined by the commissioner, $10,000.00.

(ii) If the sum of the principal amounts of mortgage loans closed by the mortgage loan originator in the preceding calendar year is $12,000,000.00 or more and less than $24,000,000.00, as determined by the commissioner, $25,000.00.

(iii) If the sum of the principal amounts of mortgage loans closed by the mortgage loan originator in the preceding calendar year is $24,000,000.00 or more, as determined by the commissioner, $50,000.00.

(b) The surety bond shall be in a form as prescribed by the commissioner.

(c) The commissioner may promulgate rules with respect to the requirements for surety bonds under this section that are necessary to accomplish the purposes of this act.

(4) If an action is commenced on a bond described in this section, the commissioner may require the filing of a new bond. If there is a recovery in that action, the mortgage loan originator shall immediately provide to the commissioner a new surety bond that meets the requirements of this section. (Emphasis Added)

Initial Company Surety Bond Requirements and Instructions

The Commissioner has determined that a company surety bond that meets the following requirements accomplishes the purposes of, and is acceptable under, the MLOLA.

1. The surety bond must be written by a surety that is approved and authorized to write surety bonds in the State of Michigan.
2. The company must file with the Nationwide Mortgage Licensing System ("NMLS") and obtain a unique identifier number. If the company is exempt from licensure as a mortgage broker, lender, or servicer, the company must still file with NMLS as an "exempt" company.

3. The surety bond must be on Office of Financial and Insurance Regulation Form No. FIS 2137, prescribed by the Commissioner for the company surety bond.
4. The amount of the initial 2010 and 2011 surety bonds must reflect the number of Michigan loan originators that are employed by the company multiplied by $10,000.00 (e.g., 10 employees multiplied by $10,000.00 would require a surety bond in the amount of $100,000.00). If the company anticipates adding additional loan originators during the licensing year, the surety bond may be in an amount that exceeds the number of loan originators currently employed by the company.
5. The expiration date of the surety bond must be December 31 of the current or a subsequent year.
6. The surety bond must be signed by an officer or director of the Company.
7. The surety bond must be signed by the Attorney-in-Fact and must be submitted to the Commissioner with the Attorney-in-Fact's Power of Attorney.
8. The company that is offering the surety bond to cover its loan originators must include with that surety bond a list of the covered loan originators that the company employs and intends to be covered by the surety bond. The surety bond and covered loan originator list must be submitted to the Commissioner. The covered loan originator list must be provided in the form of an electronic Excel Spreadsheet and must provide the following for each loan originator:
    a. The name of the company and the company's NMLS unique identifier.
    b. The full name of the loan originator as it is filed in NMLS.
    c. The loan originator's NMLS unique identifier.
    d. The dollar amount that each loan originator is bonded.

    An amended list of covered loan originators must be submitted if the company adds one or more loan originators during the course of a licensing year.
9. If a company adds one or more loan originators during the course of a licensing year, if applicable, the company must obtain a bond rider to increase the total coverage by $10,000.00 per additional loan originator.

Effect of Termination of Employment

If a company provides a company surety bond to cover its loan originators and the employment relationship is subsequently terminated between the company and a loan originator, the company must notify that loan originator in writing that they are no longer covered by the company bond. Further, the company must make the appropriate filing with NMLS to terminate the employment relationship. The company surety bond coverage will continue with the former loan originator until the employment relationship is terminated in NMLS.

If the employment relationship between a company and a loan originator who is covered by that company's surety bond is subsequently terminated, the loan originator is ineligible to act as a loan originator until a new company employment relationship is established in NMLS, the loan originator submits to the Commissioner an individual loan originator bond or is covered by a new employer's company surety bond, and the new company employer has submitted an amended "covered loan originator list" as required in paragraph no. 8 above.

Mortgage Loan Originator Renewal and the Company Bond

A company that is offering the company surety bond to cover its loan originators is required to submit each year on or before December 1 a list of the covered loan originators that the company employs and intends to be covered by the surety bond during the immediately subsequent licensing year. The "covered loan originator list" must take the same form and include the same information as required in paragraph no. 8 above. For mortgage loan originator renewals to be completed in 2010, the surety bond amount may exceed, but may not be less than $10,000 per mortgage loan originator covered by the surety bond.

A company may continue the existing surety bond each year by submitting an original, signed surety bond continuation certificate or submit a new surety bond with an expiration date of December 31 of current or subsequent year.

A company that will not provide the surety bond for mortgage loan originator renewals is required to notify the mortgage loan originators that were previously covered by the company surety bond on or before December 1 that he/she has had their sponsorship terminated in NMLS and that he/she is no longer covered by the company surety bond.

Conclusion

An individual may not obtain a mortgage loan originator license under the MLOLA unless he/she submits to the Commissioner an acceptable individual surety bond or is properly covered by a company surety bond. An individual mortgage loan originator surety bond allows the individual to control the surety bond compliance requirement under the MLOLA; however, the company surety bond may be used in lieu of the individual surety bond if the employing company follows the above instructions.

Beginning in December 2011, the mortgage loan originator surety bond will be based on principal amounts of mortgage loans closed by the mortgage loan originator in the preceding year. The surety bond amount will be based on mortgage volume obtained from call reports filed with NMLS and OFIR.

Questions regarding this bulletin should be directed to:

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