



## **Mortgage Loan Company Act**

### **CHAPTER 58**

### **ARTICLE 21**

### **Mortgage Loan Companies and Loan Brokers**

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**58-21-1. Short title.**

[Chapter 58, Article 21](#) NMSA 1978 may be cited as the "Mortgage Loan Company Act".

**58-21-2. Definitions.**

As used in the Mortgage Loan Company Act [58-21-1 NMSA 1978]:

A. "affiliate" means a person who, directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with another person;

B. "branch office" means any location, including a divisional office, separate from the principal place of business of the mortgage loan company that is identified by any means to the public or customers as a location at which the licensee holds itself out as a mortgage loan company;

C. "closing agent" means a person, including a title insurance agent or title insurance company, that acts in the normal course of business in a fiduciary capacity as a disinterested third party for the seller and buyer of real property for the purpose of consummating a sale of real property, including the performance of the following functions:

(1) preparation of deeds, mortgages, promissory notes, deeds of trust, real estate contracts, assignments or other documents incidental to the sale as permitted by law;

(2) calculations and disbursements of prorated taxes, insurance premiums, utility bills and other charges incidental to the sale;

(3) preparation of sellers' and buyers' closing statements;

(4) supervision of signing of documents;

(5) collection and disbursement of down payments, commissions of real estate licensees, fees and other charges pursuant to a sales agreement; and

(6) recordation of documents;

D. "division" means the financial institutions division of the regulation and licensing department;

E. "director" means the director of the financial institutions division of the regulation and licensing department;

F. "dwelling" means a residential structure that contains one to four units whether or not that structure is attached to real property. "Dwelling" includes an individual condominium unit, an individual cooperative unit, a mobile home and a trailer if used as a residence;

G. "individual" means a natural person;

H. "lender" means a person or government agency making a mortgage loan;

I. "mortgage loan company" means any person who, for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly:

(1) accepts an application for a mortgage loan; negotiates terms for a mortgage loan; or solicits, processes, originates, brokers or makes mortgage loans for others;

(2) offers to:

(a) accept an application for a mortgage loan;

(b) negotiate terms for a mortgage loan; or

(c) solicit, process, originate, broker or make mortgage loans for others; or

(3) closes mortgage loans that may be in the mortgage loan company's own name with funds provided by others and that are assigned to the mortgage lenders providing the funding of such loans;

J. "mortgage loan" means 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 or residential real estate upon which is constructed or intended to be constructed a dwelling as so defined;

K. "net loan funds" means the mortgage loan amounts specified in the note and mortgage less lender-retained fees, as specified in the lender's instruction to the closing agent;

L. "person" means a natural person, corporation, company, limited liability company, partnership or association;

M. "qualified manager" means an individual, designated by a mortgage loan company, responsible for the activities of the licensed mortgage loan company's office, divisional office or branch office in conducting the business of that mortgage loan company's office, divisional office or branch office and who meets requirements as specified by the director; and

N. "servicer" means a person who collects or receives payments, including principal, interest and trust items such as hazard insurance, property taxes and other amounts due, on behalf of a note holder or investor in accordance with the terms of a residential mortgage loan, and includes working with a borrower on behalf of a note holder or investor, when the borrower is in financial hardship or default, to modify either temporarily or permanently the terms of an existing mortgage loan.

### **58-21-3. License required; qualified manager.**

A. It is unlawful for any person to transact business in the state of New Mexico, either directly or indirectly, as a mortgage loan company without first filing an application with the director, meeting requirements established by the director and obtaining a license under the Mortgage Loan Company Act [58-21-1 NMSA 1978].

B. A mortgage loan company shall designate at least one qualified manager who shall:

(1) obtain and maintain a mortgage loan originator license and unique identifier number pursuant to the New Mexico Mortgage Loan Originator Licensing Act [58-21B-1 NMSA 1978]; and

(2) have not less than two years verifiable experience as a principal, partner, officer, director, manager, processor or underwriter of a mortgage loan company or a mortgage loan originator or have equivalent lending experience in a related business during the four years immediately preceding the time of application.

C. A qualified manager shall serve as a qualified manager for only one mortgage loan company.

### **58-21-4. Application for license or renewal.**

Each application for a license or license renewal as a mortgage loan company shall be filed in writing with the director, shall meet requirements established by the director and shall contain the following:

A. the applicant's name, the name of designated qualified managers, the New Mexico mortgage loan originator license number and national mortgage licensing system unique identifier number of each designated qualified manager and the name and location of every mortgage loan company office, divisional office or branch office that will be supervised by that qualified manager;

B. the name of the applicant and of each of the applicant's affiliates, engaged in the business of a mortgage loan company, and the name under which the applicant will conduct business in New Mexico, together with the articles of incorporation or articles of partnership;

C. the location of the applicant's principal office and of each branch office doing business in New Mexico;

D. the name, residence and business address of each person having an interest in the business as principal, partner, officer, trustee, director, manager or affiliate, specifying the capacity and title of each;

E. a financial statement of the applicant verified by a principal of the applicant;

F. the length of time the applicant has been engaged in the mortgage business in New Mexico and other jurisdictions;

G. disclosure of any action or proceeding, civil or criminal, judicial or administrative, completed or in progress, against the applicant or a principal, partner, director, officer, trustee, manager, employee or affiliate of the applicant;

H. the license fee; and

I. such other information and documentation as the director may require.

**58-21-5. License fees; duration of license.**

A. A license shall expire on December 31 each year. Each licensee shall submit a renewal application on or before November 1 each year.

B. The director shall establish by rule fees that shall be sufficient to cover the costs of administering the Mortgage Loan Company Act [58-21-1 NMSA 1978]. These fees may include:

(1) an original and renewal license fee paid by each licensee;

(2) an application fee to cover the costs of processing applications;

(3) an examination and investigation fee for all licensees; and

(4) late fees, license amendment fees, supervisory fees, divisional office fees, branch office fees and any other fees associated with the costs of administering the Mortgage Loan Company Act.

C. A mortgage loan company shall not be charged investigation fees for the processing of complaints when the investigation determines that no violation of the Mortgage Loan Company Act occurred or when the mortgage loan company provides a remedy satisfactory to the complainant and the director and no order of the director is issued.

D. The following fees shall be deposited into the general fund:

(1) original license fees;

- (2) license renewal fees;
  - (3) examination fees;
  - (4) investigation fees;
  - (5) late fees; and
  - (6) license amendment fees.
- E. The following fees shall be deposited into the mortgage regulatory fund:
- (1) application fees;
  - (2) divisional office fees;
  - (3) branch office fees; and
  - (4) supervisory fees.

**58-21-6. Persons exempt from licensing.**

The following persons shall be exempt from all provisions of the Mortgage Loan Company Act [58-21-1 NMSA 1978]:

- A. banks, trust companies, savings and loan associations, credit unions, insurance companies or real estate investment trusts as defined in 26 U.S.C.A. 856;
- B. an attorney licensed to practice law in New Mexico who is not principally engaged in the business of negotiating loans secured by real or personal property, when that person renders services in the course of the person's practice as an attorney;
- C. a New Mexico-licensed real estate broker rendering service in the performance of that person's duties as a real estate broker who obtains financing for a real estate transaction involving an actual bona fide sale of real estate or real estate contract handled by the broker and who receives only the customary real estate broker's commission in connection with the transaction;
- D. a person doing an act under order of a court;
- E. an individual making a single mortgage loan in a calendar year with the individual's own funds for the individual's own investment without the intent to resell the mortgage loan;
- F. the United States of America, state of New Mexico or any of their branches, agencies, departments, boards, instrumentalities or institutions and all political subdivisions of the state and their agencies, instrumentalities and institutions; and
- G. a company licensed as a small business investment company under the federal Small Business Investment Act of 1958.

**58-21-7. Surety bond.**

A. Each mortgage loan company shall post and maintain with the director a corporate surety bond.

B. The penal sum of the surety bond shall be in an initial amount of fifty thousand dollars (\$50,000). Upon renewal of the license, the penal sum of the surety bond shall be in an amount that reflects the total dollar amount of mortgage loans originated annually in New Mexico by the licensee, as follows:

- (1) zero dollars (\$0.00) to three million dollars (\$3,000,000), a surety bond of fifty thousand dollars (\$50,000);

(2) more than three million dollars (\$3,000,000) and less than ten million dollars (\$10,000,000), a surety bond of one hundred thousand dollars (\$100,000); and

(3) ten million dollars (\$10,000,000) or more, a surety bond of one hundred fifty thousand dollars (\$150,000).

C. Every bond shall provide for suit thereon by any person who has a cause of action under the Mortgage Loan Company Act [58-21-1 NMSA 1978].

D. The bond shall be in substantially the form as the director prescribes.

E. When an action is commenced on a licensee's bond, the director may require the filing of a new bond.

F. Immediately upon recovery upon any action on a bond, the licensee shall file a new bond.

### **58-21-8. Violations.**

The director may deny, suspend or revoke any license or impose other penalties when the applicant or licensee, or a principal, partner, director, officer, trustee, manager, employee or affiliate of the applicant or licensee:

A. lacks a good business reputation;

B. has violated a provision of the Mortgage Loan Company Act [58-21-1 NMSA 1978];

C. charges, collects or receives fees for procuring, negotiating or securing a loan in excess of the amounts allowed by the Mortgage Loan Company Act or by rules promulgated pursuant to that act;

D. has committed fraud in connection with a transaction subject to the Mortgage Loan Company Act;

E. has made a misrepresentation or false statement to or concealed an essential or material fact from a person in the course of the mortgage loan company business;

F. has knowingly made or caused to be made a false representation of material fact or has suppressed or withheld from the director information that the applicant or licensee possesses and that, if submitted by that person, would have rendered the applicant or licensee ineligible to be licensed pursuant to the Mortgage Loan Company Act;

G. has violated any provisions of any New Mexico statute relating to escrow agents or escrow companies;

H. has refused to permit an examination or investigation by the director of that person's books and records or has refused or failed, within a reasonable time, to furnish information or make a report that may be required by the director under the provisions of the Mortgage Loan Company Act;

I. has been convicted of a felony or any misdemeanor involving moral turpitude; subject, however, to the provisions of the Criminal Offender Employment Act [28-2-1 NMSA 1978];

J. appears to be conducting business in a manner that is injurious to persons;

K. conducts any business covered by the Mortgage Loan Company Act without holding a valid license as required by that act;

L. knowingly assists or aids and abets any person in the conduct of business covered by the Mortgage Loan Company Act without a valid license as required pursuant to that act;

M. hires or engages the services of a mortgage loan originator who is not licensed pursuant to the New Mexico Mortgage Loan Originator Licensing Act;

N. makes a mortgage loan without documenting and considering the borrower's reasonable ability to repay that loan pursuant to its terms. The borrower's ability to repay shall be demonstrated through reasonably reliable documentation that may include payroll receipts, tax returns, bank records, asset and credit evaluations, mortgage payment history or other similar reliable documentation. The provisions of this subsection shall not apply to a mortgage loan originated pursuant to a government streamline program or a streamline program administered by a government-sponsored enterprise, to a reverse mortgage insured as part of a government program or to loss mitigation activities of a mortgage loan servicer or lender with which the borrower has a current relationship, so long as each of these exceptions, as applicable, provides the borrower with a reasonable, tangible net benefit; or

O. makes a mortgage loan without determining the borrower's reasonable ability to pay the costs set forth in this subsection. In the case of an adjustable rate mortgage loan, the reasonable ability to pay shall be determined based on a fully indexed rate and repayment schedule that achieves full amortization over the life of the mortgage loan. The costs, as applicable, to be used in determining the borrower's reasonable ability to pay include principal, interest, real estate taxes, property insurance, property assessments, mortgage insurance premiums and other scheduled long-term monthly debt payments.

#### **58-21-9. Powers and duties of director.**

A. The director shall exercise general supervision and control over mortgage loan companies doing business in New Mexico. In addition to the other duties imposed on the director by law, the director shall:

(1) make reasonable rules necessary for the implementation of the Mortgage Loan Company Act [58-21-1 NMSA 1978]; provided that promulgated rules shall be subject to judicial review in the manner set forth in Section 12-8-8 NMSA 1978;

(2) conduct investigations necessary to determine whether a person has engaged in or is about to engage in an act or practice constituting a violation of a provision of the Mortgage Loan Company Act; and

(3) conduct examinations, investigations and hearings in addition to those specifically provided for by law necessary and proper to the efficient administration of the Mortgage Loan Company Act.

B. The director may conduct an investigation upon complaint when it appears that a mortgage loan company is conducting business in a manner injurious to persons or when it appears that a person has improperly claimed an exemption pursuant to Section 58-21-6 NMSA 1978.

**58-21-10. Subpoenas, oaths and examination of witnesses; penalties.**

A. In the conduct of any examination, investigation or hearing, the director may:

- (1) compel the attendance of any person or obtain any documents by subpoena;
- (2) administer oaths; and
- (3) examine any person under oath concerning the business of any person subject to the provisions of the Mortgage Loan Company Act [58-21-1 NMSA 1978] and in connection therewith require the production of any books, records or papers relevant to the inquiry.

B. In case of refusal to obey a subpoena issued to any person, the district court of the first judicial district of Santa Fe county, upon application by the director, may issue to the person an order requiring the person to appear before the director or the staff member designated by the director, there to produce documentary evidence if so ordered or to give evidence relating to the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt of court.

**58-21-11. Keeping of records.**

Every mortgage loan company and loan broker shall make and keep those accounts, correspondence, memoranda, papers, books, data and other records as the director by rule prescribes. All records so required shall be preserved for six years.

**58-21-12. Examination of records.**

All the records required to be maintained by the Mortgage Loan Company Act [58-21-1 NMSA 1978] are subject to examinations or investigations by representatives of the director within or without New Mexico as the director deems necessary or appropriate in the public interest or for the protection of investors. If the examination or investigation is conducted outside the state, the actual cost of travel for the examiners shall be reimbursed to the state by the mortgage loan company so examined or investigated.

**58-21-13. Public inspection of applications.**

Applications for licensing or a license renewal and all papers, documents, reports and other written instruments filed with the director under the Mortgage Loan Company Act [58-21-1 NMSA 1978] are public documents and open to public inspection except for files of ongoing examinations and investigations relating to violations of that act, which investigations do not culminate, or have not yet culminated, in administrative, civil or criminal action.

**58-21-14. Notice of contemplated action; hearings.**

A. When the director contemplates taking any action specified in Section 58-21-8 NMSA 1978 and Paragraphs (1) through (7) of Subsection A of Section 58-21-28 NMSA 1978, the director shall serve upon the licensee a written notice containing a statement:



(1) that the director has sufficient evidence that, if not rebutted or explained, will justify the director in taking the contemplated action;

(2) indicating the general nature of the evidence; and

(3) that unless the licensee within twenty days after service of the notice deposits in the mail a certified return receipt requested letter addressed to the director and containing a request for a hearing, the director will take the contemplated action.

B. If the licensee does not mail a request for a hearing within the time and in the manner required by this section, the director may take the action contemplated in the notice, and such action shall be final and not subject to judicial review.

C. If the licensee mails a request for a hearing as required by this section, the director shall, within thirty days of receipt of the request, notify the licensee of the time and place of the hearing, the name of the person who shall conduct the hearing for the director and the statutes and regulations authorizing the director to take the contemplated action.

#### **58-21-15. Investigations by director.**

A. The director may make any public or private investigation, within or outside of this state, as the director finds necessary to determine whether a person has violated or is about to violate the Mortgage Loan Company Act [58-21-1 NMSA 1978] or any rule or order of the director under that act or to aid in enforcement of that act or in the rules under that act.

B. The director may publish information concerning a violation of the Mortgage Loan Company Act or a rule or order of the director under that act or concerning mortgage loan activities of persons that may operate as a fraud or deceit.

#### **58-21-16. Review of order of director.**

A. Any person aggrieved by a final order of the director may appeal to the district court pursuant to the provisions of [Section 39-3-1.1](#) NMSA 1978.

B. The commencement of the proceedings under Subsection A of this section does not, unless specifically ordered by the court, operate as a stay of the director's order.

#### **58-21-17. Escrow services.**

Any licensee under the Mortgage Loan Company Act [58-21-1 NMSA 1978] who also performs any acts that are within the scope of activities regulated by any statutes of the state relating to escrow agents shall also comply with all provisions of those statutes, and the issuance of a license under the Mortgage Loan Company Act shall not serve to relieve the licensee from compliance with the provisions of such other statutes.

#### **58-21-18. Permissible charges.**

In connection with any loan originated, brokered, negotiated or made by a licensee pursuant to the Mortgage Loan Company Act [58-21-1 NMSA 1978], a mortgage loan company shall not collect, charge or receive broker fees in excess of six percent of the

principal amount of the loan. A licensee may charge reasonable settlement, origination, transaction and other fees or charges not otherwise prohibited or limited by applicable state or federal laws.

**58-21-19. Compliance with federal and state law.**

In connection with any loan originated, brokered, negotiated or made by a licensee pursuant to the Mortgage Loan Company Act [58-21-1 NMSA 1978], a licensee shall comply with:

- A. applicable federal or state laws;
- B. the provisions of the Home Loan Protection Act; and
- C. the provisions of the New Mexico Mortgage Loan Originator Licensing Act [58-21B-1 NMSA 1978].

**58-21-20. False statement unlawful.**

It is unlawful for any person to make or cause to be made in any document filed with the director in any proceedings under the Mortgage Loan Company Act [58-21-1 NMSA 1978] any statement that is at the time and in the light of the circumstances under which it is made false or misleading in any respect.

**58-21-21. Fraud unlawful.**

It is unlawful for any mortgage loan company in connection with the origination, brokering, negotiating or making of any mortgage loan, directly or indirectly, to:

- A. employ any device, scheme or artifice to defraud; or
- B. engage in any act, practice or course of business that operates or would operate as a fraud or deceit upon any person.

**58-21-22. Penalties.**

A person who violates Section 58-21-18, 58-21-19, 58-21-20 or 58-21-21 NMSA 1978, knowing the statement to be false or misleading in any respect, is guilty of a fourth degree felony and upon conviction shall be sentenced as provided for in Section 31-18-15 NMSA 1978. Civil and criminal penalties are in addition to any remedies available at common law.

**58-21-23. Filing and destruction of documents.**

A document is filed when it is received by the director. The director may permit the destruction of any document filed under the Mortgage Loan Company Act [58-21-1 NMSA 1978] with the division or the director after six years from the date of filing documents.

**58-21-23.1. Repealed.**

**58-21-23.2. Funding of real estate transactions; enforcement.**

A. Unless the net loan funds necessary to complete a purchase of real property have been previously delivered to the seller or to the closing agent, a lender shall deliver the required net loan funds within two business days of the time that the lender deems the closing agent has fulfilled the requirements of the closing agent's duties, except for the recordation of documents, and shall:

(1) authorize the closing agent to record with the county clerk all documents necessary to complete the real estate transaction and release the proceeds of the real estate transaction in accordance with agreed upon escrow instructions;

(2) advise the closing agent of any funding conditions, as set forth in the lender's escrow instructions, that have not been satisfied and instruct the closing agent in writing what is to be done with any of the lender's funds held in escrow; or

(3) advise the closing agent that the documentation for the real estate transaction does not satisfy the lender's escrow instructions, specify the manner in which that documentation does not satisfy those instructions and instruct the closing agent in writing what is to be done with any of the lender's funds held in escrow.

B. In the event a lender does not comply with the requirements of Subsection A of this section, unreasonably refuses to approve the documentation necessary to complete a real estate action or unreasonably delays authorization of the recordation of closing documents and release of proceeds of a real estate transaction, the director of the division may, upon receipt of a complaint and in accordance with the procedures set forth in the Mortgage Loan Company Act [58-21-1 NMSA 1978], suspend or revoke any state registration or license issued to the lender for a period not to exceed one year.

**58-21-24. Repealed.**

**58-21-25. No impairment of other remedies.**

The Mortgage Loan Company Act [58-21-1 NMSA 1978] is not intended to impair any remedies available to injured parties under other statutes or under common law.

**58-21-26. Exemption from authority of superintendent of regulation and licensing.**

The responsibilities and authority of the director under the Mortgage Loan Company Act [58-21-1 NMSA 1978] are explicitly exempted from the authority of the superintendent of regulation and licensing as set forth in Subsection B of Section 9-16-6 NMSA 1978.

**58-21-27. Repealed.**

**58-21-28. Enforcement.**

A. In order to ensure the effective supervision and enforcement of the Mortgage Loan Company Act [58-21-1 NMSA 1978], the director may:

(1) deny, suspend, revoke or decline to renew a license for a violation of that act, rules issued pursuant to that act or order or directive entered pursuant to that act;

(2) deny, suspend, revoke or decline to renew a license if an applicant or licensee fails at any time to meet the requirements of licensing pursuant to that act or rules issued pursuant to that act;

(3) order restitution against persons subject to that act for violations of that act;

(4) impose fines on persons subject to that act pursuant to Subsections B through D of this section;

(5) order or direct such other affirmative action as the director deems necessary;

(6) deny the person's license application or suspend or revoke the person's license in New Mexico as a mortgage loan company;

(7) award damages to the injured party in double the amount of fees charged by the mortgage loan company for originating, brokering, negotiating or making a loan within the jurisdiction of that act;

(8) issue orders or directives pursuant to that act as follows:

(a) order or direct persons subject to that act to cease and desist from conducting business, including immediate temporary orders to cease and desist;

(b) order or direct persons subject to that act to cease and desist any harmful activities or violations of that act, including immediate temporary orders to cease and desist; and

(c) enter immediate temporary orders to cease business under a license issued pursuant to the authority granted pursuant to that act if the director determines that such license was erroneously granted or the licensee is currently in violation of that act; and

(9) initiate one or more of the actions specified in Section 58-21-29 NMSA 1978, as applicable.

B. The director may impose a civil penalty on a mortgage loan company or person subject to the Mortgage Loan Company Act if the director finds, on the record after notice and opportunity for hearing, that the mortgage loan company or person subject to that act has violated or failed to comply with any requirement of that act or any rule adopted by the director pursuant to that act or order issued pursuant to that act.

C. The maximum amount of penalty for each act or omission described in Section 58-21-8 NMSA 1978 shall be twenty-five thousand dollars (\$25,000).

D. Each violation or failure to comply with any directive or order of the director is a separate and distinct violation or failure.

#### **58-21-29. Power of court to grant relief.**

A. Upon a showing by the director that a person has or is about to violate the Mortgage Loan Company Act [58-21-1 NMSA 1978] or any rule or order of the director under that act, the district court of the first judicial district for Santa Fe county or other appropriate district court in the state may grant or impose one or more of the following appropriate legal or equitable remedies:

- (1) a temporary restraining order, permanent or temporary prohibitory or mandatory injunction or a writ of prohibition or mandamus;
- (2) a civil penalty up to a maximum of twenty-five thousand dollars (\$25,000) for each violation;
- (3) disgorgement;
- (4) declaratory judgment;
- (5) restitution to consumers;
- (6) the appointment of a receiver or conservator for the defendant or the defendant's assets;
- (7) recovery by the director of all costs and expenses for conducting an investigation or the bringing of any enforcement action under that act; or
- (8) other relief as the court deems just.

B. In determining the appropriate relief to grant, the court shall consider enforcement actions taken and sanctions imposed by the director under Section 58-21-28 NMSA 1978 in connection with the transactions constituting violations of the Mortgage Loan Company Act.

C. The court shall not require the director to post bond in an action under this section.

#### **58-21-30. Unlicensed activity.**

A. A person that violates Subsection A of Section 58-21-3 NMSA 1978 for the first offense is guilty of a misdemeanor and upon conviction shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.

B. In the case of a first conviction pursuant to Subsection A of this section, the court may impose a deferred sentence pursuant to the provisions of Section 31-20-6 NMSA 1978.

C. A person that violates Subsection A of Section 58-21-3 NMSA 1978 for a second or subsequent offense is guilty of a fourth degree felony and upon conviction shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

#### **58-21-31. Licensee required disclosures.**

A mortgage loan company shall, in addition to other disclosures required pursuant to other statutes or common law:

- A. make all disclosures required by applicable federal and state laws;
- B. provide a revised "good faith estimate" and a copy of the borrower's lock-in agreement to the borrower within three days of locking in the loan rate, pricing and terms;
- C. make a full and fair disclosure of all facts within the knowledge of the mortgage loan company that are or may be material to the borrower's decision, rights or interests;
- D. disclose at least two days prior to closing of the loan, in a manner that can be understood by a reasonable borrower, the total amount of any compensation the mortgage loan company expects to receive specific to the loan being offered, including origination fees, broker fees, yield spread premiums and other fees payable to the

mortgage loan company by the lender or other third party at the time the loan is funded to the borrower;

E. clearly and conspicuously disclose in writing a mortgage loan summary, as specified by the director by rule; and

F. enter into a signed contract with the borrower, as specified by the director by rule, that provides for mortgage loan rate float or rate lock-in. The borrower may choose to:

(1) rate float, which means that a loan rate has not been locked in and the borrower is responsible for instructing the mortgage loan company when to lock in the loan rate; or

(2) lock in a rate, which means the mortgage loan originator shall lock in a loan rate. The rate lock-in shall include the loan interest rate, pricing, terms, lock-in period and any fees required for an extension of the lock-in period.

**58-21-32. Mortgage call reports.**

Each licensee shall submit to the nationwide mortgage licensing system and registry reports of condition, which shall be in such form and shall contain such information as the nationwide mortgage licensing system and registry may require.