

CHAPTER 184  
SB 81 - FINAL VERSION

2017 SESSION

17-0838  
08/10

SENATE BILL **81**

AN ACT relative to licensing of mortgage loan originators from another state.

SPONSORS: Sen. Innis, Dist 24; Sen. Soucy, Dist 18; Sen. Gannon, Dist 23; Sen. Bradley, Dist 3; Sen. Sanborn, Dist 9; Sen. French, Dist 7; Rep. Butler, Carr. 7; Rep. Murray, Rock. 24; Rep. Cushing, Rock. 21; Rep. Biggie, Hills. 23

COMMITTEE: Commerce

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ANALYSIS

This bill allows the banking commissioner to conditionally approve a license for a mortgage loan originator of a person licensed in another state.

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Explanation: Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears ~~[in brackets and struck through.]~~  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Seventeen*

AN ACT                    relative to licensing of mortgage loan originators from another state.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1            184:1 License Application; Requirements; Investigation. Amend RSA 397-A:5, IV-c to read as  
2 follows:

3            IV-c.(a) The commissioner shall not issue a mortgage loan originator license unless the  
4 commissioner makes at a minimum the following findings that the applicant:

5                    (1) Has never had a mortgage loan originator license revoked in any governmental  
6 jurisdiction, except that a subsequent formal vacation of such revocation shall not be deemed a  
7 revocation; and

8                    (2) Has not been convicted of, or pled guilty or nolo contendere to, a felony in a  
9 domestic, foreign, or military court:

10                    (A) During the 10-year period preceding the date of the application for licensing  
11 and registration; or

12                    (B) At any time preceding the date of such application if such felony involved an  
13 act of fraud, dishonesty, theft, or a breach of trust or money laundering; and

14                    (C) Provided that any pardon of a conviction shall not be a conviction for the  
15 purposes of this paragraph; and

16                    (3) Has never been convicted of, or pled guilty or nolo contendere to, a felony in a  
17 domestic, foreign, or military court except that for a felony conviction at a time prior to 10 years  
18 preceding the date of such application that did not involve an act of fraud, dishonesty, theft, or a  
19 breach of trust or money laundering, the commissioner may allow licensure by rule or order; and

20                    (4) Has never been convicted of, or pled guilty or nolo contendere in a domestic,  
21 foreign, or military court to, a misdemeanor involving: financial services or a financial services-  
22 related business; any fraud, false statements, or omissions; any theft or wrongful taking of property;  
23 bribery; perjury; forgery; counterfeiting; extortion; or a conspiracy to commit any of these offenses  
24 except that for such a misdemeanor conviction at a time prior to 10 years preceding the date of such  
25 application, the commissioner may allow licensure by rule or order; and

26                    (5) Has demonstrated financial responsibility, character, and general fitness such as  
27 to command the confidence of the community and to warrant a determination that the mortgage  
28 loan originator will operate honestly, fairly, and efficiently within the purposes of this chapter. For  
29 purposes of this subparagraph a person has shown that he or she is not financially responsible  
30 when he or she has shown a disregard in the management of his or her own financial condition. A

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determination that an individual has not shown financial responsibility may include, but not be limited to:

- (A) Bankruptcies filed within the previous 10 years;
- (B) Current outstanding judgments, except judgments solely as a result of medical expenses;
- (C) Current outstanding tax liens or other government liens and filings;
- (D) Foreclosures within the previous 3 years;
- (E) A pattern of serious delinquent accounts within the past 3 years; and

~~(6) [Has completed the pre-licensing education requirement described in subparagraph (b); and~~

~~(7) Has passed a written test that meets the test requirement described in subparagraph (e); and~~

(8) Is covered by a surety bond maintained by the mortgage banker, mortgage servicer, or mortgage broker who employs or retains the originator. The surety bond shall provide coverage for each mortgage loan originator in an amount that reflects the dollar amount of loans originated as determined by the commissioner[-]; **and**

~~[(b)(1)]~~ **(7)** ~~[For purposes of subparagraph (a)(6), a person shall complete]~~ **Has completed** at least 20 hours of education approved in accordance with subparagraph (c), which shall include at least:

- (A) Three hours of federal law and regulations;
- (B) Three hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues;
- (C) Two hours of training related to lending standards for the nontraditional mortgage product marketplace; and
- (D) Two hours of New Hampshire mortgage law education if the person did not previously pass a written test specific to New Hampshire mortgage laws; and

**(8) Has passed a written test that meets the test requirement described in subparagraph (d).**

**(b) The commissioner may conditionally approve an application for a mortgage loan originator license if the applicant is currently licensed as a loan originator in another state and has met the requirements of subparagraph (a)(1) through (a)(7)(C). The conditionally approved mortgage loan originator license shall expire after 60 days if the applicant fails to provide the commissioner with proof that the applicant has obtained 2 hours of New Hampshire mortgage law education required by subparagraph (a)(7)(D) and passed a written test as required by subparagraph (a)(8).**

~~[(2)]~~ **(c)** Pre-licensing education courses shall be reviewed and approved by the Nationwide Mortgage Licensing System and Registry based upon reasonable standards. Review

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1 and approval of a pre-licensing education course shall include review and approval of the course  
2 provider. Pre-licensing education may be offered either in a classroom, online, or by any other  
3 means approved by the Nationwide Mortgage Licensing System and Registry. The pre-licensing  
4 education requirements approved by the Nationwide Mortgage Licensing System and Registry for  
5 any state shall be accepted as credit towards completion of pre-licensing education requirements in  
6 New Hampshire. An individual previously licensed under this chapter subsequent to July 31, 2009  
7 who applies for a new license shall prove that he or she has completed all of the continuing  
8 education requirements for the year in which the license was last held.

9           ~~[(e)]~~**(d)**(1) For purposes of subparagraph (a)~~[(7)]~~ **(8)**, an individual shall pass, in  
10 accordance with the standards established under this subparagraph, a qualified written test  
11 developed by the Nationwide Mortgage Licensing System and Registry and administered by a test  
12 provider approved by the Nationwide Mortgage Licensing System and Registry based upon  
13 reasonable standards.

14           (2) A written test shall not be treated as a qualified written test for purposes of this  
15 subparagraph unless the test adequately measures the applicant's knowledge and comprehension in  
16 appropriate subject areas, including but not limited to:

17                   (A) Ethics.

18                   (B) Federal law and regulation pertaining to mortgage origination.

19                   (C) State law and regulation pertaining to mortgage origination.

20                   (D) Federal and state law and regulation, including instruction on fraud,  
21 consumer protection, the nontraditional mortgage marketplace, and fair lending issues.

22           (3) Nothing in this paragraph shall prohibit a test provider approved by the  
23 Nationwide Mortgage Licensing System and Registry from providing a test at the location of the  
24 employer of the applicant or the location of any subsidiary or affiliate of the employer of the  
25 applicant, or the location of any entity with which the applicant holds an exclusive arrangement to  
26 conduct the business of a mortgage loan originator.

27           (4) An individual shall not be considered to have passed a qualified written test  
28 unless the individual achieves a test score of not less than 75 percent correct answers to questions.  
29 An individual may retake a test 3 consecutive times with each consecutive taking occurring at least  
30 30 days after the preceding test. After failing 3 consecutive tests, an individual shall wait at least 6  
31 months before taking the test again.

32           (5) A licensed mortgage originator who fails to maintain a valid license for a period  
33 of 5 years or longer shall retake the test, not taking into account any time during which such  
34 individual is a registered mortgage loan originator.

184:2 Effective Date. This act shall take effect 60 days after its passage.

Approved: June 29, 2017  
Effective Date: August 28, 2017