

MORTGAGE LOAN ORIGINATOR LICENSING ACT (EXCERPT)
Act 75 of 2009

493.163 Investigations and examinations; access to books and records; reports; control of access to documents or records; duties and authority of commissioner; prohibited conduct by licensed mortgage loan originator or person subject to investigation.

Sec. 33.

(1) In addition to any authority provided under this act, the commissioner may conduct any of the following investigations and examinations:

(a) For purposes of initial licensing, license renewal, license suspension, license conditioning, license revocation or termination, or general or specific inquiry or investigation to determine compliance with this act, the commissioner may access, receive, and use any books, accounts, records, files, documents, information, or evidence, including, but not limited to, any of the following:

- (i) Criminal, civil, and administrative history information.
- (ii) Personal history and experience information, including independent credit reports obtained from a consumer reporting agency, as defined in section 603 of the fair credit reporting act, 15 USC 1681a.
- (iii) Any other documents, information, or evidence the commissioner considers relevant to the inquiry or investigation, regardless of the location, possession, control, or custody of those documents, information, or evidence.

(b) For purposes of investigating violations or complaints arising under this act, or for the purposes of examination, the commissioner may review, investigate, or examine any licensed mortgage loan originator or other person subject to this act as often as necessary in order to carry out the purposes of this act. The commissioner may direct, subpoena, or order the attendance of and examine under oath any person whose testimony may be required about the loans or the business or subject matter of that examination or investigation and may direct, subpoena, or order that person to produce books, accounts, records, files, and any other documents that the commissioner considers relevant to the inquiry.

(2) Each licensed mortgage loan originator or other person subject to this act shall make available to the commissioner on request the books and records relating to the operations of that licensed mortgage loan originator or other person. The commissioner shall have access to those books and records and may interview the officers, principals, mortgage loan originators, employees, independent contractors, agents, and customers of the licensed mortgage loan originator or other person concerning the business of the licensed mortgage loan originator or other person.

(3) Each licensed mortgage loan originator or other person subject to this act shall make or compile reports or prepare other information requested by the commissioner in order to carry out the purposes of this section, including, but not limited to, any of the following:

- (a) Accounting compilations.
- (b) Information lists and data concerning loan transactions, in a format prescribed by the commissioner.
- (c) Any other information the commissioner considers necessary to carry out the purposes of this section.
- (4) In making any examination or investigation authorized by this act, the commissioner may control access to any documents and records of the licensed mortgage loan originator or other person under examination or investigation. The commissioner may take possession of the documents and records or place a person in exclusive charge of the documents and records in the place where they are usually kept.

(5) If the commissioner is controlling access to documents or records under subsection (4), a person shall not remove or attempt to remove any of the documents and records except pursuant to a court order or with the consent of the commissioner. Unless the commissioner has reasonable grounds to believe that the documents or records of the licensed mortgage loan originator or other person have been or are at risk of being altered or destroyed for purposes of concealing a violation of this act, the licensed mortgage loan originator or other person or the owner of the documents and records shall have access to the documents or records as necessary to conduct its ordinary business affairs.

(6) For purposes of this section, the commissioner may do any of the following:

- (a) Retain attorneys, accountants, or other professionals and specialists as examiners, auditors, or investigators to conduct or assist in the conduct of examinations or investigations.
- (b) Enter into agreements or relationships with other government officials or regulatory associations in order to improve efficiencies and reduce regulatory burden by sharing resources, standardized or uniform methods or procedures, and documents, records, information, or evidence obtained under this section.
- (c) Use, hire, contract, or employ public or privately available analytical systems, methods, or software to examine or investigate a licensed mortgage loan originator or other person subject to this act.
- (d) Accept and rely on examination or investigation reports made by other state or federal government officials.

(e) Accept audit reports prepared by an independent certified public accountant for the licensed mortgage loan originator or other person subject to this act in the course of that part of the examination covering the same general subject matter as the audit and incorporate the audit report in the report of the examination, report of investigation, or other writing of the commissioner.

(7) The commissioner's authority under this section remains in effect whether a licensed mortgage loan originator or other person subject to this act acts or claims to act under any licensing or registration law of this state or claims to act without that authority.

(8) A licensed mortgage loan originator or other person subject to investigation or examination under this section shall not knowingly withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer records, or other information from the commissioner.

History: 2009, Act 75, Eff. July 31, 2009