

Title 5: Banking and Consumer Finance

Part 2: Mortgage Company Activities

Part 2 Chapter 1: Mississippi S.A.F.E. Mortgage Act

Rule 1.1 Purpose

The following rules are promulgated by the Commissioner of Banking and Consumer Finance under the authority granted in the Mississippi S.A.F.E. Mortgage Act, Section 81-18-1, *et seq.*, Mississippi Code of 1972, Annotated.

Source: *Miss. Code Ann.* § 81-18-29 (Rev. 2026)

Rule 1.2 Mortgage Loan Originators

Loan originators are required to be licensed per Section 81-18-7(4), Mississippi Code of 1972, Annotated, and to follow specific requirements as outlined below:

1. Under Section 81-18-9(8)(g), Mississippi Code of 1972, Annotated, loan originators must be W-2 employees or exclusively engaged to perform loan origination activities for a Mississippi-licensed company.
2. If a loan originator leaves a licensed mortgage broker or lender to be employed or exclusively engaged to work for another licensed mortgage broker or lender, then the loan originator must complete a new initial loan originator application in the Nationwide Multistate Licensing System and Registry (NMLS) system. All licenses issued by the Department are non-transferrable between licensees.
3. Under Section 81-18-14(6), if a loan originator becomes unlicensed at any point prior to completing the annual continuing education requirements for the last year in which the license was held, the loan originator must complete the remaining unmet requirements for that year prior to receiving a new or renewed license.
4. Every licensee shall maintain in paper or electronic format loan originator information for each loan that specifically states the name of each individual who engages in any task related to the loan application process, and the date and licensed location where the task is performed. This information is to be kept as part of each borrower's loan file or may be kept as part of the required Journal of Mortgage Transactions. At a minimum, the below items are to be notated in the file:
 - a. Taking the Mortgage Loan Application or assisting the borrower in completing the Mortgage Loan Application
 - b. Requesting the credit report.
 - c. Negotiating or offering to negotiate the terms of the residential mortgage loan.

Source: *Miss. Code Ann.* §§ 81-18-7(4), 81-18-9(8)(g), 81-18-17, 81-18-21, and 81-18-29 (Rev. 2026)

Rule 1.3 Qualifying Individuals

A Licensee must name one (1) qualifying individual who is an owner or employee of the licensee and will be primarily responsible for the operations of the licensee. The qualifying individual must have a minimum of two (2) years' experience directly related to mortgage activities. Proof of experience includes, but is not limited to:

1. Letter(s) from previous or current employer(s) stating the qualifying individual's job description, and length of employment.
2. Copies of other state licenses.

Note: Resumes and W-2 forms may be included but are not sufficient proof of experience.

Source: *Miss. Code Ann.* §§ 81-18-29 and 81-18-9(2)(g) (Rev. 2026)

Rule 1.4 Surety Bond Requirements

1. The following chart contains the surety bond requirement for the renewal of all mortgage broker licenses based on the volume of Mississippi residential mortgage loans originated by the licensed mortgage broker in the previous licensing/calendar year. This only includes loans that were closed by a lender or exempt company. The amounts shown are the minimum amount of surety bond coverage required. If the licensee wishes to renew their initial bond amounts (\$50,000) and forward an original Continuation Certificate for renewal to the Department, that will be acceptable.

Volume *	Amt Surety Bond Coverage
\$1,000,000 or less	\$25,000
More than \$1,000,000 but less than \$5,000,000	\$35,000
More than \$5,000,000	\$50,000

2. The following chart contains the surety bond requirement for the renewal of all mortgage lender licenses based on the volume of Mississippi residential mortgage loans originated, brokered, funded, serviced, and/or owned by the licensed mortgage lender in the previous licensing/calendar year. This only includes loans that were closed by a lender or exempt company. The amounts shown are the minimum amount of surety bond coverage required. If the licensee wishes to renew their initial bond amounts (\$250,000) and forward an original Continuation Certificate for renewal to the Department, that will be acceptable.

Volume **	Amt Surety Bond Coverage
\$10,000,000 or less	\$150,000
More than \$10,000,000 but less than \$25,000,000	\$200,000
More than \$25,000,000	\$250,000

Source: *Miss. Code Ann.* §§ 81-18-11 (Rev. 2026)

Rule 1.5 Branch Offices

1. Wholesale lending offices having no direct contact with consumers are not required to be licensed. No origination or modification of a Mississippi residential mortgage loan may occur at such locations. A wholesale lending office/branch may accept payments on a residential mortgage loan.
2. A branch office will be considered “open” if the signage is in place, a branch license has been applied for and approved, advertising has been placed and/or there is an unlocked door or no signage on the door indicating that the branch office is closed or not yet open for business. If the branch meets the other conditions to be considered “open” without prior approval from the Department, then a civil money penalty will be issued to the company, and the branch license may be denied.

Source: *Miss. Code Ann.* § 81-18-29 (Rev. 2026)

Rule 1.6 Requirements for In-State Offices

Each principal place of business and branch office in the state of Mississippi shall meet the following requirements:

1. The location shall be in compliance with local zoning ordinances; however, zoning shall not be residential. Zoning must be documented by a letter from the city or county on their official letterhead stating the zoning of the property. A privilege tax license is not sufficient proof of zoning.
2. The location may be located inside the building of another type of business; however, the required signage must indicate the presence of this office and must follow the above guidelines, as well as any guidelines required by regulation of the other business.

Source: *Miss. Code Ann.* §§ 81-18-29, 81-18-3(c) and 81-18-25 (Rev. 2026)

Rule 1.7 Advertisements

Advertisements regulated under Section 81-18-31, Mississippi code of 1972, Annotated, include advertisements in print or electronic format, and include internet websites and advertisements. Business cards are considered by the Department to be a form of advertisement and must meet the requirements for such.

Source: *Miss. Code Ann.* § 81-18-31 (Rev. 2026)

Rule 1.8.1 Required Contents of Individual Borrower Files

The individual borrower files of mortgage brokers and lenders shall contain the original or a

copy (unless otherwise specified below) of all documentation dated and signed by the applicant (unless otherwise specified below), including, but not limited to, the documents listed below. All documents listed below are required to be maintained by a mortgage lender, regardless of whether the company originally closed the loan or bought the loan in the secondary market. Mortgage brokers are responsible for those documents the company was required to issue or otherwise issued. The required documents must be kept in the following order or well-organized and marked for ease of identification by mortgage examiners. Please note that the use of correction fluid on any document associated with the mortgage loan is considered a fraudulent activity.

1. Promissory Note
2. Deed of Trust
3. Closing Disclosure (CD) or HUD01
4. Final Truth in Lending (when applicable)
5. Initial application signed by the loan originator at the time the application is taken.
6. Intent to Proceed Acknowledgement. *Required if LE is not used or the licensee uses a GFE (Good Faith Estimate).*
7. Loan Estimate (LE) provided to the applicant within three (3) working days of taking the application. If mailed, the licensee must retain a copy of the cover letter stating the date and address to which the LE was mailed. If hand delivered, the licensee must develop a separate document to be signed by the applicant acknowledging receipt of the LE.
8. Credit File (Authorizations to order credit report, verifications, credit reports, etc.) *Required if a credit report is ordered. Invoices for the credit report are also required if the borrower is charged for the credit report.*
9. Proof of Assignment (transfer) of loan (if applicable). *Only required when the licensee is transferring servicing or if the licensee is a broker closing in the broker's name.*
10. Servicing Disclosure (if funding the loan.) *If utilizing the LE, the licensee may fulfill this requirement by completing the servicing intention under the "Other Considerations" section of the LE.*
11. Notice of Right to Receive Copy of Appraisal. *Required only if the licensee orders an appraisal for the subject property.*
12. Lock-in agreement from lender (when applicable)
13. Multiple Role (Dual Agency) Disclosure (when applicable)
14. Affiliated Business Agreement (when applicable)
15. Credit Score Disclosure & Notice to Home Applicant
16. Initial Privacy Notice
17. Homeownership Counseling Organizations List (provided within three (3) days of application)
18. Verification that the applicant received the "Settlement Cost Booklet" (when applicable)
19. Ability to Repay documentation
20. Adjustable Rate Mortgage Program Disclosure (when applicable)
21. Two (2) copies of the Notice of Right of Rescission (when applicable)
22. Mortgage Origination Agreement containing information outlined in Section 81-18-33(1)(a) (provided within three (3) days of application)
23. Equal Credit Opportunity Act disclosure (provided within three (3) days of application), stating in part that the creditor is prohibited from discriminating against applicants on the

basis of race, color, religion, national origin, sex, marital status, or age. The notice must also identify the federal agency that oversees compliance with this law.

24. Final Application signed and dated by the applicant(s) at the time of closing
25. Complete copy of appraisal and invoice from appraiser, not required to be signed by applicant or loan originator. *Only applicable if an appraisal is conducted on the subject property.*
26. Notice of Action Taken (provided within three (3) business days of receiving notice that the loan is denied or within thirty (30) calendar days of receiving an application denied by the licensee).

The following federal regulations may also be used as guides to supplement the minimum recordkeeping requirements stated above: Regulation B, Regulation X, and Regulation Z. Forms issued in compliance with federal regulations may be used as guides for compliance with the minimum recordkeeping requirements stated herein. However, the requirements outlined above are separate and apart from any record-keeping requirements stated in federal regulations. Additionally, compliance with the provisions of this policy cannot be relied upon for ensuring compliance with federal regulations.

Rule 1.8.2 Maintenance of Individual Borrower Files

The required mortgage company files shall be kept at the Books and Records Information address listed on the NMLS system. These records are to be maintained in a secure format separate from any and all other business records, including other state mortgage records, for a minimum of five (5) years from the date of final disposition of the loan application. The records must be kept in a secure onsite or offsite location under conditions that will not lead to their damage or destruction. An onsite secure location would include the licensed branch office of origination or the main office location of the company. If the branch office or office of origination becomes unlicensed, the mortgage records must be maintained at the same location where the main office records are maintained according to the NMLS system or another licensed branch location. The location of the records for that unlicensed branch must be updated in the Books and Records Section of NMLS at the time of the branch closure. An off-site secure location may include a storage facility and may not include a person's home, unless this is the licensed location of the mortgage broker or lender. The records, whether kept at an onsite or offsite location, must be accessible to Department examiners during normal business hours, with or without prior notice. The Commissioner in his or her sole discretion, after giving written notice, may require records to be maintained for a longer period of time.

Source: *Miss. Code Ann.* §§ 81-18-29 and 81-18-21 (Rev. 2026)

Rule 1.9 Penalties assessed by the Department.

The company or loan originator, once assessed a penalty by the Department, will have thirty (30) days in order to pay the full amount of the penalty, unless otherwise noted by the Department.

Source: *Miss. Code Ann.* §81-18-29; *Effective date August 30, 2013*

Rule 1.10 Lock-in Fee and Lock-in Agreement.

1. If the broker collects the Lock In fee on the lender's behalf and the fee is made payable to the broker, then the fee must be placed in the broker's escrow account until it is transferred to the lender.
2. The mortgage broker may not charge or collect a lock-in fee that is not on behalf of a named lender.
3. If the lock-in fee is refundable, then the lock-in agreement is to state if the consumer will receive payment back in the form of a check or in the form of a reduction of origination fees at closing from the mortgage company.

Source: *Miss. Code Ann.* §81-18-29; *Effective date August 30, 2013*

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1. If the broker collects a lock-in fee on the lender's behalf and the fee is made payable to the broker, then the fee must be placed in the broker's escrow account until it is transferred to the lender.
2. The mortgage broker may not charge or collect a lock-in fee that is not on behalf of a named lender.
3. If the lock-in fee is refundable, then the lock-in agreement is to state if the consumer will receive the refund in the form of a check or in the form of a reduction of origination fees at closing from the mortgage company.

Source: *Miss. Code Ann.* §§ 81-18-29 and 81-18-28 (Rev. 2026)

Rule 1.11 Multiple Role (Dual Agency) Disclosure

A licensee acting in a dual capacity on the same transaction must clearly disclose their dual relationship to the borrower at the first substantive contact, meaning the first meaningful discussion about the transaction. Such disclosure must be made using **Form 1** included in Appendix A hereto. Furthermore, said form must be signed by both the borrower and the broker/MLO and must be maintained in the individual borrower's file pursuant to Miss. Code

Ann. Section 81-18-33(1)(i) and Rule 1.8, above.

Source: *Miss. Code Ann.* §§ 81-18-27(1)(b), 81-18-27(1)(g), and 81-18-33(1)(i) (2026)

Rule 1.12 Safeguarding Standards for Remote Work

Licenses must certify on an annual basis, or on a more frequent basis if required by the Commissioner, that all loan originators performing origination activities at a remote location meet the standards and safeguards specified by Miss. Code Ann. § 81-18-57. Certification must be made by statement under oath by an officer or qualifying individual of the licensee, designated as such in NMLS system, using **Form 2** included in Appendix A hereto.

Source: *Miss. Code Ann.* § 81-18-29; Miss. Code Ann. § 81-18-57(1)(f) (Rev. 2026)

Rule 1.13 Financial Responsibility Standards for Covered Mortgage Servicers

This rule shall be applicable to covered institutions as defined in Rule 1.13.1, below. For entities with a holding company or affiliated group of companies, applicability shall be at the covered institution level. Not-for-profit mortgage servicers and housing finance agencies are not subject to the requirements of this rule.

1. *Definitions.* For purposes of this section, the following terms are defined as follows:
 - a. “Agency” means Fannie Mae, Freddie Mac and Ginnie Mae.
 - b. “Allowable assets for liquidity” means those assets that may be used to satisfy the liquidity requirements herein, including unrestricted cash and cash equivalents and unencumbered investment grade assets held for sale or trade (Agency MBS, obligations of GSEs, U.S. Treasury obligations).
 - c. “Board of directors” means the formal body established by a covered institution that is responsible for corporate governance and compliance with this rule.
 - d. “Covered institution” means a nonbank mortgage servicer required to be licensed under the Mississippi S.A.F.E. Mortgage Act, Section 81-18-1, *et seq.*, Mississippi Code Annotated, with servicing portfolios of 2,000 or more 1 – 4-unit residential mortgage loans serviced or subserviced for others, excluding whole loans owned, and loans being “interim” serviced prior to sale as of the most recent calendar year end, reported in the NMLS Mortgage Call Report, and that operates in two (2) or more states, districts or territories of the United States either currently or as of the prior calendar year end.
 - e. “Corporate governance” means the structure of the institution and how it is managed, including the corporate rules, policies, processes, and practices used to oversee and manage the institution.
 - f. “External audit” means the formal report prepared by an independent certified public accountant expressing an opinion on whether the financial statements are presented fairly, in all material aspects, in accordance with the applicable financial reporting framework, and is inclusive of an evaluation of the adequacy of a company’s internal control structure.
 - g. “FHFA” means the Federal Housing Finance Agency.

- h. “GSE” means government-sponsored enterprises, or Federal National Mortgage Association (“Fannie Mae”) and Federal Home Loan Mortgage Corporation (Freddie Mac).
- i. “Ginnie Mae” means Governmental National Mortgage Association.
- j. “Internal audit” means the internal activity of performing independent, objective assurance and consulting to evaluate and improve the effectiveness of company operations, risk management, internal controls and governance processes.
- k. “Interim serviced prior to sale” means the activity of collecting a limited number of contractual mortgage payments immediately after origination on loans held for sale but prior to the loans being sold into the secondary market.
- l. “Mortgage Call Report” means the quarterly or annual report of residential real estate loan origination, servicing and financial information completed by companies licensed in NMLS.
- m. “MSR Investor” means entities that invest in and own mortgage servicing rights and rely on subservicers to administer the loans on their behalf. MSR Investors are often referred to as “master servicers.”
- n. “Mortgage-backed security” or “MBS” means a financial instrument, often a debt security, collateralized by residential mortgages.
- o. “Mortgage servicing rights” or “MSRs” refers to the contractual right to service residential mortgage loans on behalf of the owner of the associated mortgage in exchange for specified compensation in accordance with the servicing contract.
- p. “Operating liquidity” means the funds necessary to perform normal business operations, such as payment of rent, salaries, interest expense and other typical expenses associated with operating the entity.
- q. “Residential mortgage loans serviced” means the specific portfolio or portfolios of residential mortgage loans for which a licensee is contractually responsible to the owner or owners of the mortgage loans for the defined servicing activities.
- r. “Reverse mortgage” means a loan collateralized by real estate, typically made to borrowers over 55 years of age, that does not require contractual monthly payments and is typically repaid upon the death of the borrower through the sale of the home or refinanced by the heirs.
- s. “Risk management assessment” means the functional evaluations performed under the Risk Management Program and reports provided to the board of directors under the relevant governance protocol.
- t. “Risk management program” means the policies and procedures designed to identify, measure, monitor and mitigate risk sufficient for the level of sophistication of the servicer.
- u. “Servicer” means the entity performing those activities listed in the definition of “service a mortgage loan” under Mississippi Administrative Code Section 81-18-3(*II*) when those activities are performed on behalf of the owner or owner of the related mortgages under the terms of a servicing contract.
- v. “Servicing liquidity” or “liquidity” means the financial resources necessary to manage liquidity risk arising from servicing functions required in acquiring and financing MSRs, hedging costs (including margin calls) associated with the MSR asset and financing facilities, and advances or costs of advance financing for principal, interest, taxes, insurance and any other servicing related advances.

- w. “Subservicer” means the entity performing the routine administration of residential mortgage loans as agent of a servicer or MSR investor under the terms of a subservicing contract.
 - x. “Subservicing for others” means the contractual activities performed by subservicers on behalf of a servicer or MSR investor.
 - y. “Tangible net worth” means total equity less receivables due from related entities less goodwill and other intangibles less pledged assets.
 - z. “Whole loans” means those loans where a mortgage and the underlying credit risk is owned and held on the balance sheet of the entity with all ownership rights.
2. *Financial Condition.* A covered institution must maintain capital and liquidity in compliance with this rule, as follows:
- a. For the purpose of complying with the capital and liquidity requirements of this rule, all financial data must be determined in accordance with Generally Accepted Accounting Principles (GAAP).
 - b. A covered institution that meets the FHFA Eligibility Requirements for Enterprise Single-Family Seller/Services for capital, net worth ratio, and liquidity, regardless of whether the servicer is approved for GSE servicing, meets the capital and liquidity requirements of this rule. Covered institutions shall maintain written policies and procedures implementing the capital and servicing liquidity requirements of this section. Such policies and procedures must include a sustainable written methodology for satisfying these requirements and be available to the Commissioner upon request.
 - c. Covered institutions shall maintain sufficient allowable assets for liquidity in addition to the amounts required for servicing liquidity, to cover normal business operations. Covered institutions shall have in place sound cash management and business operating plans that match the size and sophistication of the institution to ensure normal business operations. Management must develop, establish, and implement plans, policies, and procedures for maintaining operating liquidity sufficient for the ongoing needs of the institution. Such plans, policies, and procedures must contain sustainable, written methodologies for maintaining sufficient operating liquidity and be available to the Commissioner upon request.
3. *Corporate Governance.*
- a. *Board of Directors Required.* Covered institutions shall establish and maintain a board of directors responsible for oversight of the covered institution.
 - b. *Alternative to board of directors.* For covered institutions that are not approved to service loans by a GSE or Ginnie Mae, or where these federal agencies have granted approval for a board alternative, an institution may establish a similar body constituted to exercise oversight and fulfill the board of directors’ responsibilities.
 - c. *Board of directors’ responsibilities.* The board of directors shall be responsible for:
 - i. Establishing a written corporate governance framework, including appropriate internal controls designed to monitor corporate governance and assess compliance with the corporate governance framework, available to the Commissioner upon request.
 - ii. Monitoring and ensuring institution compliance with the corporate governance

- framework and this rule.
- iii. Accurate and timely regulatory reporting, including the requirements for filing the Mortgage Call Report.
 - d. *Internal Audit.* The board of directors shall establish internal audit requirements that are appropriate for the size, complexity and risk profile of the servicer, with appropriate independence to provide a reliable evaluation of the servicer's internal control structure, risk management and governance. Board established internal audit requirements, and the results of the internal audits shall be made available to the Commissioner upon request.
 - e. *External Audit.* Covered financial institutions shall receive an external audit, including audited financial statements and audit reports conducted by an independent public accountant annually. The external audit shall be available to the Commissioner upon request and include at a minimum:
 - i. Annual financial statements including a balance sheet, statement of operations [income statement] and cash flows, including notes and supplemental schedules prepared in accordance with GAAP.
 - ii. Assessment of the internal control structure.
 - iii. Computation of tangible net worth.
 - iv. Validation of MSR valuation and reserve methodology, if applicable.
 - v. Verification of adequate fidelity and errors and omissions (E&O) insurance.
 - vi. Testing of controls related to risk management activities, including compliance and stress testing, where applicable.
 - f. *Risk Management.* Covered institutions shall establish a risk management program under the oversight of the board of directors and available to the Commissioner upon request that identifies, measures, monitors, and controls risk sufficient for the level of sophistication of the servicer. The risk management program must have appropriate processes and models in place to measure, monitor and mitigate financial risks and changes to the risk profile of the servicer and assets being serviced. The Risk Management Program must be scaled to the complexity of the organization, but be sufficiently robust to manage risks in several areas, including, but not limited to:
 - i. *Credit risk:* The potential that a borrower or counterparty will fail to perform on an obligation.
 - ii. *Liquidity risk:* The potential that the servicer will be unable to meet its obligations as they come due because of an inability to liquidate assets or obtain adequate funding or that it cannot easily unwind or offset specific exposures.
 - iii. *Operational risk:* The risk resulting from inadequate or failed internal processes, people, and systems or from external events.
 - iv. *Market risk:* The risk to the servicer's condition resulting from adverse movements in market rates or prices.
 - v. *Compliance risk:* The risk of regulatory sanctions, fines, penalties or losses resulting from failure to comply with laws, rules, regulations or other supervisory requirements applicable to the servicer.
 - vi. *Legal risk:* The potential that actions against the institution that result in unenforceable contracts, lawsuits, legal sanctions or adverse judgments can disrupt or otherwise negatively affect the operations or condition of the servicer.
 - vii. *Reputation risk:* The risk to earnings and capital arising from negative publicity

- regarding the servicer's business practices.
- g. *Risk Management Assessment.* Covered institutions shall conduct a risk management assessment on an annual basis concluding with a formal report to the board of directors available to the Commissioner upon request. Evidence of risk management activities throughout the year must be maintained and made part of the report, including findings of issues and the response to address those findings.
4. *Commissioner's Authority to Address Risk.* The Commissioner may:
- a. Where risk is determined by a formal review of a specific covered institution to be extremely high, order or direct the institution to satisfy additional conditions necessary to ensure that the institution will continue to operate in a safe and sound manner and be able to continue to service loans in compliance with state and federal law and/or regulation.
 - b. Where risk is determined by a formal review of a particular covered institution or institutions to be extremely low, provide notice that all or part of this rule is not applicable to those covered institutions.
 - c. Where economic, environmental, or societal events are determined to be of such severity to warrant a temporary suspension of all or certain sections of this rule, provide public notice of temporary suspension.

Source: *Miss. Code Ann.* §§ 81-18-9(5); 81-18-21(5); 81-18-29; 81-18-43(1)(e)(iv) (2026)

APPENDIX A: FORMS

Disclosure of Multiple Roles in a Consumer Real Estate Transaction

Borrower(s):

Lender:

Broker:

MLO:

Borrower Address:

Date:

In connection with your efforts to identify a 1-4 family residence for purchase and your efforts to obtain financing for that purchase, I will be acting in the following roles related to your transaction (*check all that are applicable*):

☐ Representing you (the buyer), as your mortgage:

☐ lender

☐ broker

☐ loan originator

☐ As a real estate broker, agent, or salesperson for:

☐ the seller

☐ you (the buyer)

☐ you AND the seller, as an intermediary

☐ As a _____ for:

☐ the seller

☐ you (the buyer)

☐ you AND the seller

As required by law or as otherwise deemed appropriate, I may provide you other disclosures, describing in greater detail one or more of the roles described above. Acting in these multiple roles presents the potential for conflicts of interest. If an actual conflict of interest is identified, I will promptly disclose it to you. Examples of potential conflicts of interest include the possibility that services I provide to you in one capacity may affect my compensation in connection with services I provide to you in another capacity. By your execution below you acknowledge these disclosures and consent to my multiple roles. You acknowledge that you have read this disclosure and understand it, that you have been given the opportunity to ask questions, and that I have responded fully to any and all such questions.

Borrower

Date

Borrower

Date

Borrower

Date

Lender

Date

Broker

Date

Mortgage Loan Originator

Date

THIS CERTIFICATION MUST BE MADE ANNUALLY

CERTIFICATION OF SAFEGUARDING STANDARDS FOR MORTGAGE LOAN ORIGINATORS

(Mississippi S.A.F.E. Mortgage Act, Section 81-18-1, et seq., Mississippi Code of 1972)

To Commissioner, Department of Banking and Consumer Finance, State of Mississippi:

I, _____, (name),
_____, (officer/qualifying individual) of
_____, (licensee), designated as such in the

Nationwide Multistate Licensing System, hereby certify, under penalty of perjury, that all mortgage loan originators performing origination activities at a remote location as defined in Mississippi Code Annotated Section 81-18-3(rr) on behalf of _____ (licensee) meet the appropriate standards and safeguards required under the Mississippi S.A.F.E. Mortgage Act, Mississippi Code Annotated Section 81-18-1, *et seq.*, and the rules and regulations promulgated thereunder.

WITNESS my signature this the _____ day of
_____ 20_____
_____, (Signature)

STATE OF _____, COUNTY OF _____
Personally appeared before me, the undersigned authority in and for the said county and state, on this _____ day of _____, 20_____, within my jurisdiction, the within named _____, who acknowledged that he/she is the _____ of _____ and that in said capacity he/she executed the above and foregoing after having been duly authorized to do so. Subscribed and sworn to before me this _____ day of _____, 20_____.

Notary Public

My commission expires the _____ day of _____ 20_____.

Part 2: Chapter 2: General Hearing Procedures

DBCF General Procedures for Mortgage Division Hearings

RULES AND PROCEDURES TO BE OBSERVED AT ANY HEARINGS CONDUCTED BY THE COMMISSIONER PURSUANT TO MISSISSIPPI S.A.F.E. MORTGAGE LICENSING ACT

Rule 1.0 Purpose of These Rules and Procedures; These rules and procedures are adopted for the purpose of providing a general guideline for the conduct of any administrative hearings for which the Commissioner of the Department of Banking and Consumer Finance, State of Mississippi (“Commissioner”) has been charged by law to conduct relating to businesses, professions, or licenses within the jurisdiction of the Mississippi Department of Banking and Consumer Finance (the “Department” or “DBCF”) pursuant to the Mississippi S.A.F.E. Mortgage Licensing Act, §§ 81-18-1 et seq., and § 81-18-29 of the Code of Mississippi of 1972, as amended.

1.1 Authority to Promulgate; These Rules and Procedures are adopted pursuant to the Mississippi S.A.F.E. Mortgage Licensing Act of 2009, §§ 81-18-1 et seq., and § 81-18-29 of the Code of Mississippi of 1972, as amended.

Source: MISS. CODE ANN. §§ 81-18-1; 81-18-29; (effective date July 1, 2016)

1.2 Severability; If any provision, section, subsection, sentence, clause or phrase of any of the Rules and Procedures, or the application of the same to any person or entity or any set of circumstances, is for any reason challenged or held to be invalid, null or void, the remaining rules, procedures or regulations or any application thereof to any person or circumstances shall remain valid.

1.3 Notice of Hearing; A written notice specifying the violation(s) or offense(s) for which the licensee (or any person or entity subject to the jurisdiction of the Department) is charged and a notice of the time and place of the hearing shall be served at least ten (10) days prior to the hearing date. Such notice may be served by mailing a copy of the notice, via certified mail postage prepaid, to the last known residential or business address of the licensee, person or entity. Service via hand-delivery, electronic communications, or other methods may also be used to perfect service of the notice upon the party or its representative. Notice to a representative shall be deemed notice to the party represented.

1.3.1 Waiver; A properly noticed party’s failure to timely respond to notice shall constitute that party’s full and complete waiver of the party’s intent to attend the noticed Hearing or otherwise defend against the charges. A properly noticed Hearing may thereafter be conducted by the Commissioner without the party charged being present or represented.

1.4; Unless expressly prohibited by statute or regulation, the Commissioner shall have discretion to control all aspects of the hearing, including any motion practice or depositions that may be authorized, in order to maintain order, maximize administrative/agency economy and to set controls for the behavior of all participants involved in any manner. All hearings shall be conducted by the Commissioner, who shall not be bound by strict rules of civil procedure or by the rules of evidence in the conduct of any phase of the hearing process.

1.5 Hearing Counsel to Commissioner; The Commissioner may appoint Hearing Counsel in order to provide legal counsel to the Commissioner on all aspects of the hearing and assist in conducting any part of the hearing or activities related thereto. Hearing Counsel shall have experience with conducting hearings that are judicial or administrative in nature and will assist and solely represent the Commissioner to ensure an orderly and fair hearing process. Hearing Counsel shall be an attorney that does not represent any other party interested in the hearing and may be an attorney from the Mississippi Attorney General's Office. All parties shall be notified upon appointment of Hearing Counsel.

1.5.1 Authority of Hearing Counsel; Hearing Counsel shall have authority to conduct the hearing process in his/her discretion, and in consultation with the Commissioner. Hearing Counsel may make recommendations on any question or issue, but the Commissioner shall have the ultimate discretion and sole authority in all situations to make the final determination of any issue.

1.6 Administration of Oaths; At any hearing or related matter the Commissioner shall administer oaths as may be necessary for the proper conduct of the hearing. The Commissioner's authority may be administered by a certified Court Reporter.

1.7 Extensions of time; Upon motion by any party or on his/her own initiative, the Commissioner has sole discretion to order an extension of any deadline that may be established during the hearing process.

Source: MISS. CODE ANN. §§ 81-18-1; 81-18-29; (effective date July 1, 2016)

Rule 2.0 Enrollment of Representatives, Attorneys and Accountants;

2.0.1 Eligibility to Practice; No person shall be eligible to practice before the Commissioner unless such person is enrolled in accordance with these regulations, except that any individual may appear, without enrollment, on his own behalf or on behalf of a member of his immediate family, if such appearance is without compensation; and a member of a partnership, an officer of a corporation, or an authorized regular employee of an individual, partnership, corporation, or other business entity may likewise appear without enrollment in any matter relating to such individual or business entity.

2.0.2 Scope of Practice; Practice before the Commissioner shall be deemed to include all matters relating to the presentation of a client's matter to the Commissioner, Deputy Commissioner, the Division Director, or an examiner, including the preparation and filing of applications, reports, systems of internal control, financial statements, or other documents submitted to the Department on behalf of such client.

2.0.3 Qualifications for Enrollment; In addition to the individuals described herein, the following persons may be admitted to practice before the Commissioner:

(a) Attorneys at law admitted to practice before the Supreme Court of the State of Mississippi and who are lawfully engaged in the active practice of their profession.

(b) Certified public accountants and public accountants qualified to practice under Mississippi law and who are lawfully engaged in active practice as such.

2.0.4 Procedures for Enrollment; An attorney or accountant meeting the qualifications described in the subsection above shall be deemed automatically enrolled at the time the attorney or accountant first appears for or performs any act of representation on behalf of a client in any matter before the Commissioner.

2.0.5 Enrollment for a Particular Matter; The following persons may, upon motion of an enrolled (or exempt) person, be admitted to practice before the Commissioner for the purposes of a particular case or matter:

(a) Attorneys at law who have been admitted to practice before the courts of any state or territory or the District of Columbia, and who are in good standing with the court by which they are licensed.

(b) Certified public accountants or public accountants who have duly qualified to practice as such in their own names, under the laws and regulations of any state or territory or the District of Columbia, and who are in good standing with the entity by which they are licensed.

No person enrolled for a particular matter may practice before the Commissioner except in association with the enrolled person who sponsored his enrollment.

2.0.6 Suspension or Revocation of Enrollment;

(a) A person's enrollment to practice before the Commissioner shall be suspended automatically without a hearing if his professional license is suspended or revoked.

(b) Any person enrolled to practice before the Commissioner may have his enrollment to practice suspended or revoked if, after due consideration, the Commissioner finds that:

i.) The person made a materially false or misleading statement with regard to his application for enrollment;

ii.) The person willfully failed to exercise diligence in the preparation or presentation of any application, report, or other document filed with the Department, or knowingly misrepresented any material fact to the Commissioner;

iii.) The person willfully violated or aided and abetted in the violation of any provision of an applicable statute or the Department's regulations; or

iv.) The person does not possess the requisite qualifications or expertise to represent others before the Commissioner, lacks character or integrity, or has engaged in unethical or improper conduct.

Source: MISS. CODE ANN. §§ 81-18-1; 81-18-29; (effective date July 1, 2016)

Pre-Hearing Procedures

Rule 3.0 Formal Docket Number Assigned; Each matter coming before the Commissioner shall be assigned a concise title that is descriptive and a unique cause number, and be docketed accordingly. Thereafter, all submissions related to the Hearing shall bear the title and docket number and shall be included on the Commissioner's pre-hearing docket and made part of the Record.

3.1; Submissions to the Commissioner related to the Hearing shall be on 8 ½" x 11" standard white paper, or as otherwise deemed appropriate and allowed by the Commissioner. The parties' submissions shall be typed and double-spaced unless impractical and otherwise allowed by the Commissioner.

3.2 Amendments; The Commissioner in his/her sole discretion, under such conditions as the Commissioner may prescribe, may allow any pleading, application, motion or other paper filed in a Hearing proceeding to be amended, corrected or otherwise supplied with an omission.

3.3 Scheduling; The Commissioner may call an in-person Scheduling Conference with counsel for the respondents and counsel for the Department in order to establish hearing guidelines, clarify issues, and set deadlines to complete any action items prior to the hearing. A scheduling order may be adopted by the Commissioner thereafter. The deadlines set are at the sole discretion of the Commissioner and may include, but are not limited to, the following:

- Initial exchange of proposed witnesses
- Initial exchange of proposed documents to be included in the Hearing Record
- Pre-hearing conference
- Final exchange of documents to be included in the record and witnesses to appear at the hearing.

Additionally, the Commissioner may consider any inquiries or requests from the parties to ensure clarity, transparency and fairness of the hearing.

3.4 Discovery; Except as provided by these Rules and Procedures, there is no right to discovery in any hearing conducted by the Commissioner.

3.4.1; An interlocutory action by any respondent filed in a Chancery Court requesting a "Bill of Discovery" or seeking any other "discovery" based on equitable relief under common law or otherwise, is an improper attempt to circumvent the Department's Rules and Procedures and shall be summarily dismissed by the Court.

3.5 Motion Practice Prior to Hearing; The Commissioner may require all parties to submit written direct and rebuttal testimony, all documentary evidence and exhibits the parties plan to submit into evidence at the hearing, witness lists specifying the witnesses the parties plan to call and the subject matter of the testimony, and written motions and motion responses in advance of the hearing pursuant to deadlines established by a Scheduling Order or other written directive.

3.5.1; Any written motion, request, or correspondence directed to the Commissioner by a party shall be provided to all attorneys of record or directly to an unrepresented party such that there shall be no earwiggling of the Commissioner. Any submission and service of same on counsel of record may be submitted electronically (e.g. e-mail) or otherwise in accordance with directives from the Commissioner or Hearing Counsel.

Source: MISS. CODE ANN. §§ 81-18-1; 81-18-29; (effective date July 1, 2016)

The Hearing

Rule 4.0 Location; A hearing shall be conducted at the offices of the Department or at an alternative location that is deemed suitable by and within the sole discretion of the Commissioner.

4.1; These Rules and Procedures are not intended to address all aspects of the hearing process. The Commissioner may determine that more specific procedural rules for the hearing of a matter are necessary and should be implemented to ensure the order, fairness and efficiency of the hearing. The Commissioner's authority provides the sole discretion to amend and/or supplement the hearing rules as deemed necessary and upon proper notice to all parties.

4.2; The "Rules of Evidence" used in judicial proceedings and any other rules of procedure or evidence that apply in other contexts may be considered informative for all matters before the Commissioner, however, all such rules are non-binding and any standards set forth therein are relaxed for all purposes of an administrative hearing conducted by the Commissioner.

4.3 Court Reporter; Each conference presided over by the Commissioner with all parties and/or their representatives may be transcribed for the Record with costs borne by the party requesting the Court Reporter's services. The Department shall procure the services of a competent and certified Court Reporter who shall transcribe everything done and said on the Record and shall keep and properly index all exhibits as directed by the Commissioner or the Hearing Counsel.

4.4 Deposit of Costs; The Commissioner may, in his/her sole discretion, require a deposit or other guaranty that the fees and costs of the service of process and, should the Commissioner determine that the costs of the hearing will outstrip the amount of the bond(s) maintained by a regulated entity on file with the Department, may require an additional security bond from the respondent(s).

4.5 Witnesses; Issuance of subpoenas by Commissioner; Upon proper written application of any party or its attorney, a subpoena may be issued by the Commissioner as follows:

4.5.1 Subpoenas *Duces Tecum*; At any time, no later than 14 days prior to hearing, at the instance of any party, the party or its attorney may make application for the issuance of a document subpoena directed to any non-party requesting documents that are or may be pertinent to the issues to be heard at the hearing of the matter. The issuance of a document subpoena is at the sole discretion of the Commissioner, and predicated upon a finding that the request sets forth as plainly as possible the documents that are sought and the purpose of the requested production. Absent extraordinary circumstances, a total of fifteen (15) separate document subpoenas is the maximum limit. Additional document subpoenas may issue only after a showing of extraordinary circumstances by the party making the requests.

4.5.2 Summons/Subpoena to appear in person; Rule 45 of the Mississippi Rules of Civil Procedure is considered instructive guidance to the parties, but it is not necessarily binding for the purposes of any matter before the Commissioner.

4.5.3 Enforcement by Commissioner; Unless otherwise prohibited by statute, the Commissioner shall have full authority to enforce any summons, subpoena or order that issues during the hearing process. The Commissioner may further request the Chancery Court in any county to assist with the enforcement of any such document.

4.5.4 Service of Process; All subpoenas, subpoenas *duces tecum*, summons or any other process issued in proceedings pending before the Commissioner shall extend to all parts of the state and may be served by any person authorized to serve process of courts of record in this state.

4.5.5 Costs Borne by Requestor; A process server shall be entitled to collect appropriate fees for such service as allowed in the courts of this state, with all such costs to be borne by the party requesting the service of process.

4.6 Depositions of Witnesses; In any hearing proceeding before the Commissioner, the Department or a party may request the issuance of a subpoena requiring an individual to be deposed upon a showing of good faith need to take the deponent's testimony under oath. If the Commissioner finds that a party's request is well-taken, that the requested deposition will not adversely affect the deponent and is not being requested for any improper purpose, he/she may issue a subpoena requiring the attendance of the deponent at a date and time certain. Any deponent is entitled to be paid an attendance fee and/or travel costs related to the deposition as allowed in Rule 45 of the Mississippi Rules of Civil Procedure. All costs shall be borne by requesting party.

4.6.1 Limit on Depositions; Unless there is an extraordinary need established by a clear and convincing showing, a party shall be granted no more than five (5) depositions. A deposition shall be limited to no more than eight (8) hours and shall be conducted at a location that is reasonably convenient to the deponent and properly noticed to all other

parties. The Commissioner has sole discretion to expand or limit the scope, content, location, environment, manner and decorum of any deposition requested by any party. The Commissioner may refuse to allow any such request or revoke a previously issued summons if the Commissioner determines that such action is necessary to prevent cumulative, repetitive or duplicative testimony, to avoid unnecessary delay or obstruction, or to prevent the harassment or embarrassment of a witness. No party shall be entitled to depose or require testimony at a deposition or at the Hearing from the Commissioner (current or former), the Hearing Counsel, or the Department's attorney(s).

4.7 Attendance of Hearing; A witness may be summoned/subpoenaed to attend the Hearing in person for the purposes of giving live testimony before the Commissioner. A witness should be reimbursed for actual expenses incurred as a result of their attendance and the party requesting the issuance of the subpoena requiring attendance shall bear the cost of expenses such that the witness shall not incur losses as a result of compliance. A reasonable daily witness fee should also be provided to each subpoenaed witness, not to exceed the amount described in Rule 45 of the Mississippi Rules of Civil Procedure.

4.8 Exchange of Witness lists, Exhibits; The Commissioner has sole discretion to require the parties to provide and/or exchange lists of witnesses that are likely to or may be called to provide live testimony at the Hearing and may require the same for any or all exhibits that a party plans to use as affirmative evidence at the Hearing. Evidence that may be submitted solely for the purpose of impeachment or rebuttal may be excluded from this requirement.

4.9 Taking of Evidence; The Commissioner and Hearing Counsel shall maintain full control over the taking of any evidence at the hearing and may limit the number of witnesses to be called, the topics to be discussed, the documents entered and all other manner of evidence in order to maintain order, maximize administrative economy and prevent duplicative, irrelevant, superfluous or improper submissions.

Since the Hearing will not be limited to strict rules of evidence, the Commissioner may consider any evidence he/she finds to be highly probative and has a strong indicia of reliability. As the fact-finder for the Hearing, the Commissioner is empowered to assess credibility, weigh conflicting evidence and draw factual inferences from the testimony and exhibits introduced by the parties. Additionally, as the fact-finder, the Commissioner may reject the subject statements as implausible, properly countered by other evidence, or otherwise not compelling.

4.10 Taking Notice; The Commissioner may take official notice of any generally accepted information or technical or scientific matter within the fields of expertise within the purview of the Department and of any other fact which may be judicially noticed by the courts of this state. The parties must be informed of any information, matters or facts so noticed and must be given a reasonable opportunity, on request, to refute such information, matters or facts by evidence or by written or oral presentation of authorities, the manner of such refutation to be determined by the Commissioner or Hearing Counsel.

4.11 Time Limit on Hearing; The Commissioner has the discretion to limit the number of days allowed for the Hearing. Absent a showing of extraordinary circumstances, no hearing shall be

conducted for more than 40 hours of testimony or argument. The Commissioner has discretion in the scheduling of the Hearing days and may require all parties to comply with further time restrictions. Limits may be uniformly placed on all parties and/or witnesses. An opportunity for cross-examination of any live witness shall be provided to the party opposite subject to above limitations.

4.12 Failure to Appear at Hearing-Default; If the respondents fail to appear at the scheduled time and place set for the Hearing, the Commissioner may adjourn the Hearing and may thereafter proceed with the determination and final ruling based solely on the submitted Record. Failure to attend and present all defenses to the Commissioner the Hearing shall constitute waiver of the party's ability to raise on appeal any issue that could have been raised during the Hearing Process.

4.13 Subsequent Submission of Further Written Legal Arguments/briefs; The Commissioner may direct a party to provide additional written submissions to complete or clarify legal or factual issues, following the conclusion of live Hearing. The submission of additional documents shall be only at the direction of the Commissioner and shall serve to postpone the "close" of the Hearing until after the parties' submissions are complete. Documents that are intended to rebut testimony may likewise be submitted after the conclusion of live testimony, if directed by the Commissioner. Nothing will be accepted for consideration or entered upon the Record after the end of the Hearing, unless it is expressly allowed or directed by the Commissioner.

Source: MISS. CODE ANN. §§ 81-18-1; 81-18-29; (effective date July 1, 2016)

Rule 5.0 Hearing Record; The Hearing Record will consist of all transcripts and documents of related proceedings including all pre-hearing motion practice, all submitted documentation, exhibits and testimony admitted as part of the Record at the Hearing, any other papers filed by the parties, all pre-filed testimony and attached exhibits and any subsequently filed briefs or supplements that are directed by the Commissioner.

Source: MISS. CODE ANN. §§ 81-18-1; 81-18-29; (effective date July 1, 2016)

Rule 6.0 Attendance limited; Control of all attendees of the Hearing shall be vested in the discretion of Commissioner and may be restricted as needed to maintain order, while recognizing the need for transparency. The Commissioner shall further have discretion to limit the number of individuals attending on behalf of the same entity. The Commissioner may also take any necessary actions to prevent the unlawful disclosure of personal identifiers, confidential or proprietary information, or any other information that, if otherwise made available for public consumption could cause harm or injury.

Source: MISS. CODE ANN. §§ 81-18-1; 81-18-29; (effective date July 1, 2016)

Rule 7.0 Final Order of Commissioner; At the close of the Hearing (as determined by the Commissioner), the Commissioner shall, within no more than 60 business days, issue a written "Final Order" memorializing the conclusions of fact and/or law and any other determinations

made by the Commissioner and based upon the Record. All parties and their representatives shall be provided with a copy of the Final Order in the typical manner and the Respondent(s) or their representatives shall further be provided the Final Order via hand-delivery or certified mail to the last known address on file with the Department. The Final Order shall be made public and enforced by the Commissioner unless expressly prohibited.

7.1 Standards of Proof: The Commissioner's Final Order and the determinations contained therein shall be based on "clear and convincing" evidence. All other determinations made by the Commissioner and reduced to writing are subject to an "abuse of discretion" standard for the purposes of any appeal or court intervention.

7.2 Appeal of Final Order to Chancery Court; A Final Order may be appealed to the Chancery Court of Hinds County, Mississippi, First Judicial District, or any other court of competent jurisdiction as authorized by statute. An appeal shall in no way function to stay the effectiveness of the Final Order, absent express statutory authority allowing a stay or a proper order from a court of competent jurisdiction.

Source: MISS. CODE ANN. §§ 81-18-1; 81-18-29; (effective date July 1, 2016)

**APPEAL OF DENIAL OF APPLICATION(S) FOR S.A.F.E. MORTGAGE ACT
LICENSURE; MANDATORY APPEAL DIRECTLY TO COMMISSIONER;
ABBREVIATED HEARING PROCESS**

Rule 8.0: In the absence of any express authority to the contrary, and in accordance with § 81-18-37(2) of the Mississippi Code of 1972, the following shall amend the general hearing process described above and provide a *mandatory administrative appeal process* for any applicant or licensee that is *denied a license application or renewal application*, in writing by the Department.

- a) Following a denial of an application for license, the applicant must, within 30 days of the receipt of the written denial from the Department, submit an appeal in writing to the Commissioner and request a hearing be held to appeal the denial of an application by the Department.
- b) All above rules shall govern the hearing of the denial application, unless expressly revised herein below.
- c) Absent a showing of extraordinary circumstances, the denial hearing shall be conducted in one day and shall last no longer than 5 hours. The applicant shall be allotted two (2) hours to present evidence and/or testimony in favor of its application. The Department

shall thereafter be allotted two (2) hours to present its rebuttal in support of the denial of the application.

- d) No deposition testimony shall be allowed with regard to a denial hearing. All witness testimony must be presented live at the hearing.
- e) The Commissioner shall be allotted at least one (1) hour to conduct inquiry of the witnesses and/or parties.
- f) A Final Order on the hearing of the denial of an application for licensure shall be published within no more than 30 days following the close of the Hearing.
- g) Any Final Order that is entered by the Commissioner denying an application for any reason shall memorialize the findings of the Commissioner and the applicant may thereafter, within ten (10) days of the date of the Final Order, appeal to the Chancery Court of Hinds County, Mississippi, First Judicial District.

Source: MISS. CODE ANN. §§ 81-18-1; 81-18-29; (effective date July 1, 2016)