**Hartwig’s Comprehensive Study Guide,**

**Arizona MLO State Exam**

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D. Relating to the Mortgage Banker

VII. Definitions

I. Quiz from Powerpoint Slides

2. The superintendent must examine a state regulated bank(or financial institution) every year. (ARS 6-122 B(2))

The superintendent must examine banks/credit unions every two years, and any other enterprise or consumer lender every 5 years.

4. An Arizona licensed mortgage broker who negotiates the terms of a loan for a borrower needs a LO license. (ARS 6-991.01)

A loan originator who works for a federally chartered bank doesn’t need an LO license.

5. A seller of real property, who receives one or more mortgages or deeds of trust as security for a purchase money obligation, is exempt from the mortgage broker licensing requirements. (ARS 6-902)

Does an RA agent who acts as a loan originator but doesn’t receive compensation for that function need LO licensing? Yes. (See AZ Comp Statements #2)

II. Practice Exam

1. An attorney who places loans for compensation must be licensed. So does this mean that when he’s doing the loan as an ancillary matter, he’s doing it for free?

2. A person who originates loans without compensation does not need a license, except for a RA agent who acts as a loan originator. (See Ppt Quiz Statements #5)

Suspension?

A loan originator can require the borrower to buy insurance that e3qalse the cost of replacement of the property.

A loan origination on an investment property as an owner occupied loan is probably investment fraud.

A loan originator can’t take any loans before becoming licensed.

The debt is still enforceable if a loan is placed after a LO’s license is suspended.

If a loan processor received a bonus for how well they negotiated with the borrower, then the processor should be licensed.

If a person who uses their own funds to originate receives compensation from the yield spread premium, then they need a license.

A loan originator can only work for one company at a time.

When deposits are made to a trust account, the checks are made payable to the mortgage brokerage firm.

The following statement is false: appraisal or credit report monies received in advance are placed in operating accounts. “What part of the statement is false?” They are placed in a trust account.

It is not necessary to place the name of the mortgage banker on websites, when advertising.

What is a mortgage broker?

Where are the monies placed for an app fee, credit report fee, and appraisal fee?

III. Questions from my test

What is a beneficiary in a trust deed?

The beneficiary is the lender. The trustee holds it as security for a loan between a borrower and lender.

What parties are involved in a deed of trust?

Trustee, trustor(borrower), beneficiary(lender)

Mortgage Broker Commission: Do they need to be MLO Licensed? 6-909.B

Yes. Arranging for or negotiating. Employees too.

What is a first mortgage loan, and does the loan originator need an LO license to negotiate a 4 family dwelling?

A first mortgage loan means it has first lien position, and that it takes priority in case of default.

Does a mortgage broker need a home office? 6-904.H

Yes

Can a mortgage broker receive commission from a lender? 6-947 B.

No compensation unless licensed

What are advance fees?

6-946 C & E; Written agreement necessary. Deposited in trust account.

When do I have to disclose rate change to my client?

When do I or the employer have to notify the department of new employment?

Can the lender discount 3rd party fees for the borrower?

p. 35 Book Can’t collect money besides credit report fee prior to delivering TILA.

Can the LO advertise for himself with the name of the lender?

What is the affidavit of fixture and how is it used? Is it necessary with loan closing?

How does the lender discount 3rd party fees?

What is a cease and desist hearing?

When is the preliminary title report necessary?

When is the mortgage broker declared as principal?

IV. Notes from AZ Class.

V. MLO Rap

**Part 1**

Wanna to be an MLO, take the state exam

Wanna pass the test, study this jam.

10% of interest, is the legal rate

no prepayment penalties if you just can’t wait.

AZdfi punto gov

is the state’s website you’ll come to love

The superintendent is the man,

he’s appointed every 4, and audits every 5.[audits financial institutions annually, banks every two, and brokers and bankers every 5]

Some basic definitions, are very good to know

investor, commercial property, closing and escrow.[closing is when all the docs are executed and recorded]

Escrow records the deal, then the deal is closed.

An investor means a person, or company purchasing.

Commercial land consists, of more than 4 families,

And the commercial banker is okay without licensing.

What goes on your business card,

Along with those balloons,

Company name license, NMLS too.

You also need these three, for any kind of sign,

blog twitter facebook, just look online.

ARS 6-991.01

Talks about your license, and when you don’t need one

If it’s your own house, or for family,

commercial mortgage banker(small pause), or their employee

Receives deeds of trust, or ancillary lawyer.

manufactured homes, and loss mitigation.

**Part 2**

Half of the test, is on the prohibitions,

Not the prohibition or the wine in your kitchen.

Don’t work or advertise, for yourself

get paid without a license

or give loans less than minimum [10k min for banker, 5k min for broker]

Don’t hand out a loan, not secured by deed

Unless your employer is indeed the lender.

You can’t work two jobs, and you can’t be the agent,

unless you tell the customer upfront like it is.

Can’t disburse the green stuff, can’t commit fraud, can’t make the max insurance more than the cost.

Have to be employed, can’t knowingly withhold, info from the auditor, when he’s told.

If, you’re the processor or  you underwrite,  you can’t publicize, loan origination.

What’s prohibited, for a banker/broker

Let’s start with servicíng, can’t mix PI TI [appraisal fees and credit report fees go in one account, application fees are separate]

No blank spaces, if you know what I mean

Can’t keep from, shopping around

If the loan is under, 200 thou

Can’t delay the loan, to increase the cost

or your precious license, will soon be lost.

What about them records, piled in a heap

Bankers for 2 years, brokers 5 years keep.

What to tell the client, when it comes to fees,

app fee, appraisal, credit then you’re done.

Feds are always watching so be sure and tell all three.

**Part 3**

4 typesof encúmbrances for your deed.

Easement, deed restriction, encroachment, and lien.

Mortgages specific, and voluntary.

Lots of traps to fall in, better to be wary.

The last few facts, about Arizona

Lien theory state, not toyota tacoma.

Property tax is due, in October and March.

But if late you pay,

In November and May.

Wanna pass the test, study this rap,

use it all the time, like a google app

**VI. Content from Statutes**

**A. Relating to the Superintendent**

1. AZ Dept of financial Institutions
   1. Regulatory Authority, Department Structure, Responsibilities and Limitations
      1. Appointment by governor
      2. 4 year term
      3. Deputy Superintendent, assistants, examiners
      4. $65/hour maximum charge
      5. Civil penalty 🡪 $5000
      6. Department Receivership🡪 Revolving Fund
      7. Cease and Desist 🡪 Restraining order or injunction
   2. Prohibited acts by Superintendent
      1. Indebtedness🡪 Can’t become indebted to federal banks. The exception is when there is disclosure and the interest is no more favorable.

**VI. B. Relating to the Loan Originator in the State of Arizona**

**Definition 6-991.12**

**Licensing and Renewal Requirements 6-991.03**

**Licensing Exemptions 6-991.01**

**Continuing Education 6-991.04, 6-991.03.D-F**

**Denial, Suspension , Revocation 6-991.05**

**Prohibited Acts (6-991.02)**

**Definition 6-991.12**

A natural person who receives compensation from taking loans, negotiating loans, or negotiating loan modifications.

Doesn’t include:

1. A dedicated loan processor or underwriter, unless licensed.

2. A person who performs real estate brokerage activities, unless the person is compensated by a lender,

3. Someone who does extensions of credit relating to a timeshare plan.

4. Someone who makes 5 or fewer mortgages loans per year

5. A person who takes back a purchase money mortgage in connection with the sale of residential real estate.

6. An employer making a mortgage loan to an employee.

**Licensing and Renewal Requirements 6-991.03**

Licensing

1. Complete a 20 hour class; 3 hours federal, 3 hours ethics, 2 hours non-conventional

2. Pass the exams a year before you get your license

3. Obtain a NMLS number.

4. Deposit a bond executed by the employer.

5. Fingerprints for the background check

6. Pay into the mortgage recovery fund.

7. App fee may be waived for housing counselors certified with the department of housing and employed by a nonprofit.

Renewal

1. Eight CE credits, 3 federal, 2 ethics, 2 non-conventional.

2. Courses count for the year in which they are taken.

**Licensing Exemptions 6-991.01**

1. Registered loan originators

2. Someone who negotiates terms of a residential mortgage loan secured by a dwelling that served as the individual’s residence. (Selling your own home, and negotiating the loan).

3. Responsible individual who does not act as an LO.

4. Employee of a commercial mortgage banker

5. Employee who agrees not to originate loans for residental, one to four unit dwellings.

6. Seller of real property who receives a deed of trust or mortgage as security for a purchase money obligation.

7. An attorney who negotiates without any form of compensation from the lender or broker, and does so as an ancillary matter.

8. Individual who wants to negotiate a loan for an immediate family member, and doesn’t normally do loans.

9. Employees of a manufactured home retailer, who perform clerical duties and don’t receive compensation from a broker or lender.

10. Employee of a mortgage loan servicer, if involved solely in loss mitigation efforts, and unless HUD requires them to be licensed.

11. An employeee who tells the superintendent he’ll only originate commercial mortgage loans.

**Continuing Education 6-991.04, 6-991.03.D-F**

1. Superintendent grants or denies license within 120 days of receipt of application.

2. Superintendent keeps the license until the applicant is employed. The employer notifies the superintendent of the employment in order to receive the license.

3. Licenses last a year. Licenses are issued for a year.

4. The LO uses the correct forms for renewal.

5. Renewal fee paid every year on or before December 31st. After December 31st, the licensee is suspended,

6. Licenses not renewed by January 31st become expired.

7. You can request inactive status between Dec 1st to 31st. This requires an inactive status renewal fee. You can’t be on inactive status for more than two years.

8. To return from inactive status, you need to:

meet the requirements of 6-991.03.B

make a written request

pay the fees

meet all other requirements

9. The employer keeps the license at the principal place of business.

10. LO needs to immediately tell the superintendent of a change in address, and there’s a fee involved to endorse the change of address.

11. Five days after an LO being fired, the employer needs to tell the superintendent and return the license to the superintendent.

12. An LO applicant who is registered in NMLS can receive a temporary license for 180 days.

**Denial, Suspension , Revocation 6-991.05**

Superintendent can deny, suspend, or revoke if applicant or licensee is…

1. Dishonest, untruthful, no good character

2. No financial responsbility, experience, or competence.

3. Has violated any law, rule, or order

4. Convicted of a felony in the last 7 years, or any crime of dishonesty, fruad, or money laundering at any time.

5. Has had a final judgment in a civil action on the grounds of fraud, deceit, or misrepresentation. It would be contrary to public interest to give them a license.

6. An order filed against the applicant involving fraud, deceit, etc, by an adminstrative agency of the state or the U.S.

7. Lied on the application and supporting documents.

8. Has had his license or similar licenses revoked or denied in any state.

9. If indicted or informed against for forgery, embezzlement, extortion, criminal conspiracy to defraud, or similar offense.

**Prohibited Acts (6-991.02)**

1. Not accept monies or documents on his own behalf, for himself.

2. Can’t receive compensation if not licensed.

3. Can’t advertise on his own behalf, in any manner.

4. Can’t negotiate a loan:

* Less than minimum
* Not secured by a mortgage, deed of trust, or other lien interest, unless employed by a consumer lender.

5. Can’t work for two employers.

6. Can’t get paid as a real estate agent & loan originator unless:

* Is licensed
* Has disclosed to the client his dual status.

7. Can’t receive any portion of the borrower’s wages or salary.

8. Can’t receive or disburse the funds of a loan.

9. Can’t make a false promise or conceal an essential fact.

10. Can’t lie about the monies belonging to a party to a mortgage loan or not disburse monies.

11. Can’t do anything illegal or improper.

12. Can’t have buyer get insurance that exceeds the replacement cost of the improvements.

13. Can’t originate unless employed by a broker, banker, or lender.

14. Can’t advertise without:

* Name and license number of employer’s principal place of business.
* Employer’s approval.
* NMLS of licensee

15. Can’t withold records from the superintendent.

16. Loan processor or underwriter must be licensed, and must have an NMLS.

17. A dedicated loan processor or underwriter can’t advertise their ability to originate loans.

**VI. C. Relating to the Mortgage Broker in the State of Arizona**

**Definition (6.901.11)**

**Licensing Exemptions (6-902)**

**Qualifications (6-903.C)**

**Continuing Education (6-903.V)**

**Notification (6-904.H)**

**Denial of license (6-905)**

**Prohibited Acts (6-909)**

**Recordkeeping (6-906.A)**

**Fee Disclosure (6-906. C & D)**

**Definition (6.901.11)**

A person who offers, makes, or negotiates a mortgage loan.

**Licensing Exemptions (6-902)**

1. If regulated by the government and if regulated by the other law or under the jurisdiction of a court.

2. A person who makes a loan

* with own money
* for own investment
* without intent to resell(on secondary market)
* Not engaged in the business of making loans

3. A person who funds a loan that was processed, by a licensee employed by a mortgage banker licensed in this state, or a person exempt according to paragraph 1 who

* Doesn’t has an office in this state
* Doesn’t solicit borrowers in this state
* Doesn’t negotiate mortgage loans. (negotiating doesn’t include setting the terms under which a person may buy a mortage loan)

Ex. Johnson Mortgage Broker(JMB) in CA has a client who moves to Arizona, and buys a house in AZ. JMB funds the loan,

4. Seller of real property who receives a deed of trust or mortgage as security for a purchase money obligation.

5. An attorney who doesn’t normally do loans, but renders service in the course of his practice.

6. A person who receives a mortage/deed of trust as security for 1. unpaid work to improve the property,

2. a lien without consent of the owner.

The unpaid work is an obligation payable on an installment or deferred payment basis.

7. An agency of any state or of the U.S.

8. A nonprofit federally tax exempt corporation that provides financing for business expansion. They must be certified by the United States small business administration.

9. An institutional investor who makes a commercial mortgage loan as defined in section 6-971.

**Qualifications (6-903.C)**

1. 3 years experience

2. Completed course of study 3 years before application

3. passed the mortgage broker’s test, at the most a year before getting their license.

**Continuing Education (6-903.V)**

12 CE units completed each year, either by the natural person or the designated responsible individual. This doesn’t apply to renewals for a commercial mortgage broker license.

**Notification (6-904.H)**

A mortgage broker should designate a principal place of business. If the address changes, the superintendent needs immediate notification.

**Denial of license (6-905)**

**Superintendent may deny, suspend, or revoke if applicant or licensee is …**

1. Insolvent

2. Not honest, truthful, or of good character

3. Has violated any applicable rule or law.

4. Doesn’t allow an audit by the Superintendent

5. Been convicted in any state of a felony or any crime of dishonesty.

6. Has a had a final judgment relating to fraud, deceit, or misrepresentation.

7. Has had an order entered aginst him involving fraud by an adminstrative agency of the U.S., the federal government, or any state.

8. Has made a material misstatement or lied on the application for a license.

9. Forgery, embezzlement, extortion, criminal conspiracy to defraud.

10. ????? 6-905. C

**Prohibited Acts (6-909) \* unique to a mortgage broker**

1. No blank spaces

2. No license = no compensation

3. No Deceptive Advertising

4. Less than 200k, clients can’t be restricted from shopping

5. Can’t delay the closing of a loan, resulting in increasd costs, except in good faith.

**\***6. Can’t record any document that would give rise to liability (33-420)

7. Can’t receive compensation for a loan

* less than 5,000
* Not secured by a mortgage or deed of trust

8. No concurrent Employment

9. Can’t receive compensation as a broker and agent unless:

* licensed as a broker
* Disclose to the client their dual role.

10. Can’t accept borrower’s wages.

11. Can’t receive or disburse monies in servicing or arranging for a loan. Exception: 6-906.C

12. Can’t lie or mislead

13. Can’t fail to account for money, or fail to disburse money.

14. Can’t do anything illegal or improper

**\***15. Can’t record a mortgage if monies are not available for the immediate disbursal to the mortgagor*, unless* the broker gives the mortgagor a date when the funds will be available, and obtains the mortgagor’s written permission.

16. Can’t require property insurance that exceeds the replacement cost of the improvements.

17. Must supervise employees who are loan originators.

**Recordkeeping (6-906.A)**

Mortage broker has to keep records to show accordance the law. Keeps records at principal place of business, or out of state with permission. These out-of-state records have to be made available within 3 business days. If access isn’t given, then a toll-free phone number must be provided to obtain the necessary information. Must keep all records for 5 years after the closing date.

**Fee Disclosure (6-906. C & D)**

* Monies to be deposted immediately in an escrow account. Withdrawals only according to the terms of the escrow instructions. The escrow agent can’t be the mortgage broker.
* A mortgage broker may accept an appraisal fee, which can be used to obtain an appraisal, a credit report, and an application fee. Can’t mix the appraisal fee or credit report fee with other monies of the mortage broker.
* Can’t accept less than 200k for a mortgage loan application.
* Agreement tells about the disposition of monies, whether the loan is finally consummated, the term for which the agreement remains in force, and list of all costs to the borrower.
* All documents provided by the borrower are property of the borrower.
* Comply with the real estate lending disclosure requirements of title I of the consumer credit protectio act and the real estate settlement procedures act.