

# Recent Amendments to New York Emergency Regulations Part 420 and the New Supervisory Procedure MB 107

August 23, 2010

McGlinchey Consumer Finance Alert

New York has recently amended its regulations relating to Mortgage Loan Originators (“MLOs”). Under New York law, all new MLOs must be licensed by July 31, 2010. The emergency regulations are substantially similar as those previously adopted effective December 17, 2009 and March 17, 2010. In response to comments received, the new emergency regulations include somewhat lower and more flexible surety bond requirements. These regulations became effective June 13, 2010.

The following is a summary of the major changes to 3 NYCRR Part 420 from the previous regulation:

- 1.
2. The definition of a MLO is broadened to include any individual who takes a mortgage application or offers or negotiates the terms of the mortgage loan with a consumer.
- 3.
4. Individuals who originate loans on manufactured homes will now be subject to the regulation.
- 5.
6. If licensing of individuals who work for mortgage loan servicers and who engage in loan modification activities is required by the U.S. Department of Housing and Urban Development, such individuals may be subject to the licensing requirements of the new law and to revised Part 420.

- 7.
8. Individuals who have applied for “authorization” under the prior version of Article 12-E of the Banking Law and Part 420 of 3 NYCRR have a simplified process for becoming licensed and may continue to originate loans until they are licensed under the revised regulation or their applications are denied.
- 9.
10. Individuals with a felony conviction within the last seven years or a felony conviction for fraud at any time are now prohibited from being licensed as MLOs in New York State.
- 11.
12. Individuals must satisfy new pre-license education and testing requirements. There also are new bonding requirements and continuing education requirements.
- 13.
14. A license automatically terminates if the licensee does not pay his or her annual license renewal fee or take the requisite amount of continuing education credits. The authority of the Superintendent to suspend an individual for good cause also has been clarified.

In addition, new Supervisory Procedure MB 107 has repealed Supervisory Procedure MB 108. Supervisory Procedure MB 108 relates to the approval of education providers and courses, and was originally adopted because the prior version of Article 12-E required the Superintendent to approve both courses and providers. This activity has been transferred to the Nationwide Mortgage Licensing System & Registry (“NMLS”) under new Article 12-E of the Banking Law. Accordingly, Supervisory Procedure MB 108 has been rescinded.

A transitional period is provided for MLOs who, as of July 11, 2009, were authorized to act as MLOs or had filed applications to be so authorized. Such MLOs may continue to engage in MLO activities, provided they submit any additional, updated information required by the Superintendent. The transitional period runs until January 1, 2011, in the case of authorized persons, and until July 31, 2010, in the case of applicants (unless their applications are denied or withdrawn as of an earlier date). Under revised Part 420, applicants are required to submit their applications considerably in advance of these dates in order to allow the Department to complete the necessary processing.

These items became effective June 13, 2010 and were in the [June 30, 2010 Register](#).