



ADMINISTRATIVE RULES OF MONTANA

8.111.305 APPROVED LENDERS

- (1) A public or private entity ("applicant") maintaining an office in the state and authorized by law to make or participate in making new, residential mortgage loans may apply, in writing, for designation as an approved lender for board programs.
- (2) All applications must include:
 - (a) a list of the applicant's principal officers and the officers authorized to execute contracts and other documents;
 - (b) a list of the personnel principally involved in making and servicing mortgage loans, the office address, phone number, description of qualifications, and a copy of each person's mortgage broker and loan originator license if applicable;
 - (c) evidence of errors and omissions insurance and fidelity insurance, each of which must be in an amount not less than the amount required by the Federal National Mortgage Association (FNMA) for its participating lenders;
 - (d) if the applicant is regulated by one of the regulatory agencies defined in ARM 8.111.305B, the applicant's most recent regulatory agency reports covering the four quarters immediately preceding the date of application which must indicate, based on generally accepted accounting principles (GAAP), total capital as a percentage of average assets of at least 6% or meet all applicable capital requirements of the regulatory agency and a minimum net worth of \$1,000,000; or, if the applicant is not regulated by a regulatory agency defined in ARM 8.111.305B, the applicant's audited financial statements for the applicant's most recently completed fiscal year and financial statements prepared within 60 days of submission for at least a six-month period immediately preceding the date of the financial statements comprised of a balance sheet, year-to-date income statement, and a statement of change which must indicate, based on generally accepted accounting principles (GAAP), total capital as a percentage of average assets of at least 6%, and a minimum net worth of \$1,000,000;
 - (e) evidence of existence of the business entity for at least one year prior to the date of application (also applicable to existing approved lenders restructured by the lender's regulatory agency or through reorganization); and
 - (f) designation of the office or offices within the state of Montana at which residential loans using board programs will be made, including the address, telephone number, facsimile number, and e-mail address of each office.
- (3) The board, in its discretion, may approve or deny an applicant based on the financial information submitted pursuant to (2)(d), the applicant's performance in the marketplace, and the

requirements of Title 90, chapter 6, MCA, the applicable trust indenture, and the rules then in effect. A lender approved under this section will be notified and advised of the conditions of its approval.

- (4) Each year or as may be requested by the board, an approved lender participating in the board's programs shall submit:
 - (a) if the lender is not regulated by one of the regulatory agencies defined in ARM 8.111.305B, its audited financial statements for its most recently completed fiscal year or, if the lender is regulated by one of the regulatory agencies defined in ARM 8.111.305B, the lender's regulatory agency reports for the previous four quarters, demonstrating that the financial standards described in (2)(d) continue to be met;
 - (b) an updated list of the officers required in (2)(a);
 - (c) an updated list of the personnel required under (2)(b);
 - (d) an updated list of the offices required under (2)(f); and
 - (e) evidence of continuing compliance with (2)(c).
- (5) An applicant failing to meet the requirements of this rule may not submit a new application for approval as a lender for a minimum period of 180 days from the date of its previous application.
- (6) The relationship between the board and an approved lender is contractual in nature. The approved lender must comply with the provisions of the board's Mortgage Purchase and Servicing Guide as the same may be amended from time to time. The board may terminate a lender's approval to make board loans at any time without cause and without a termination fee. The board will terminate a lender's approval to make board loans for repeated or material failure of the lender to comply with the provisions of the board's Mortgage Purchase and Servicing Guide. Board staff may suspend a lender's approval to make board loans on a temporary basis for a lender's failure to comply with the board's Mortgage Purchase and Servicing Guide. If the lender is unable or fails to correct the noncompliance with the guide, board staff will refer the suspension to the board for appropriate action.

Authorizing statute(s): 90-6-104, 90-6-106, MCA

Implementing statute(s): 90-6-106, 90-6-108, MCA

History: NEW, Eff. 7/9/76; TRANS, Ch. 163, L. 1977; Eff. 7/1/77; AMD, 1980 MAR p. 2247, Eff. 8/1/80; TRANS, from Dept. of Administration, Ch. 294, L. 1981, Eff. 7/1/81; AMD, 1989 MAR p. 266, Eff. 2/10/89; AMD, 1989 MAR p. 978, Eff. 7/28/89; AMD, 1990 MAR p. 1783, Eff. 9/14/90; AMD, 1995 MAR p. 2801, Eff. 12/22/95; AMD, 1996 MAR p. 679, Eff. 3/8/96; AMD, 2008 MAR p. 1137, Eff. 6/13/08; AMD, 2011 MAR p. 1307, Eff. 7/15/11; AMD, 2017 MAR p. 783, Eff. 6/10/17.