



ADMINISTRATIVE RULES OF MONTANA



8.111.305A APPROVED LOAN SERVICERS

- (1) A public or private entity which has as its function the servicing of mortgage loans secured by residential real estate and maintains an office in the state may apply to be an approved servicer for board mortgage loans ("applicant").
- (2) All applications shall be in writing and include the following:
 - (a) identification of the location where board loans will be serviced, which information must be kept current at all times;
 - (b) evidence of existence of the business entity for at least one year prior to the date of application (also applicable to an existing approved servicer restructured by the servicer's regulatory agency or through reorganization);
 - (c) a list of the applicant's principal officers, addresses and phone numbers, and designation of the officers authorized to execute contracts and other documents;
 - (d) a list of the applicant's personnel principally involved with servicing mortgage loans, the office address, phone number, and a description of qualifications;
 - (e) 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 servicers;
 - (f) if the applicant is regulated by one of the regulatory agencies defined in ARM 8.111.305B, the applicant must submit the applicant's 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; and
 - (g) evidence that the applicant is an approved servicer of the FHA, VA, RD, or a private mortgage insurer approved by the board.

- (3) A previously approved servicer that is restructured by the servicer's regulatory agency or through corporate reorganization must reapply for designation as an approved servicer. The restructured servicer is exempt from the requirements in (2)(b) - providing evidence of one year of existence, and (2)(f) - submittal of financial statements for the preceding six-month period but shall submit financial statements for the period from the date the servicer was restructured or reorganized through the date of application.
- (4) The board, in its discretion, may approve or deny an applicant based on the financial information submitted pursuant to (2)(e), 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 servicer approved under this section will be notified and advised of the conditions of its approval.
- (5) Each year or as may be requested by the board, an approved servicer shall submit:
 - (a) if the servicer 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 servicer is regulated by one of the regulatory agencies defined in ARM 8.111.305B, the servicer'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 office(s) required in (2)(a);
 - (c) an updated list of the officers required under (2)(c);
 - (d) an updated list of the personnel required under (2)(d);
 - (e) evidence demonstrating that the servicer has internal controls providing for security of board funds and confidentiality of information related to board mortgagors, which evidence can be the servicer's most recent Statement of Auditing Standard 70 Report, equivalent regulatory agency report, or an equivalent report from an outside auditor; and
 - (f) evidence of continuing compliance with (2)(e).
- (6) An applicant failing to meet the requirements of this rule may not submit a new application for approval as a servicer for a minimum period of 180 days from the date of its previous application.
- (7) An approved servicer must maintain at least one office within the state where a board borrower can make payments, obtain relevant information about the borrower's loan, and obtain resolution of servicing issues regarding the borrower's loan. If the servicer elects to service board loans outside of the state, the servicer must either have the capability of providing loan documents requested for audit purposes by electronic means or reimburse the board for the cost of its auditors to travel to and conduct an audit at the out-of-state servicing site.
- (8) The relationship between the board and an approved servicer is contractual in nature. The approved servicer 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 servicer's approval to service board loans at any time without cause and without a termination fee. The board will terminate a servicer's approval to service board loans for repeated or material failure of the servicer to comply with the provisions of the board's Mortgage Purchase and Servicing Guide.

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

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

History: NEW, 1989 MAR p. 266, Eff. 2/10/89; AMD, 1990 MAR p. 1783, Eff. 9/14/90; 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.