

CHAPTER 42. REGISTRATION OF LOAN BROKERS

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Authority

The provisions of this Chapter 42 issued under section 8 of the Credit Services Act (73 P. S. § 2188), unless otherwise noted.

Source

The provisions of this Chapter 42 adopted December 19, 1997, effective December 20, 1997, 27 Pa.B. 6555, unless otherwise noted.

§ 42.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—The Credit Services Act (73 P. S. §§ 2181—2192).

Applicant—A person who, in accordance with this chapter, has submitted a registration application or renewal registration application and applicable fees to the Department in an effort to register with the Department as a loan broker.

Department—The Department of Banking and Securities of the Commonwealth.

Employee—A person who receives wages reportable under Internal Revenue Service Form W-2.

Loan broker—As defined in section 2 of the act (73 P. S. § 2182), the term includes any person who acts for or on behalf of a loan broker for the purpose of soliciting borrowers. The term does not include a person licensed or otherwise regulated by the Department as a loan broker under other statutes or licensed, regulated or exempted under other statutes, including those administered by any other agency of the Commonwealth or the United States.

Principal—An officer, director, partner, joint venturer, branch manager or other person with similar managerial or supervisory responsibilities for a loan broker.

§ 42.2. Applicability.

This chapter applies to all loan brokers who act as loan brokers in this Commonwealth or on behalf of the residents of this Commonwealth.

§ 42.3. Registration required.

(a) On or after December 20, 1997, a person may not act as a loan broker in this Commonwealth without registering with the Department.

(b) To register as a loan broker, a person shall submit to the Department:

(1) A completed registration application provided by the Department.

(2) Payment to the Department of a nonrefundable registration fee of \$300.

(c) Within 60 days of receipt of a registration application, the Department will do one of the following:

(1) Notify the applicant that the application is approved and the applicant is registered as a loan broker.

(2) Under § 42.5 (relating to disapproval of registration), notify the applicant that the applicant's registration is disapproved and that the applicant is not registered as a loan broker.

(3) Notify the applicant that the registration application is incomplete and what additional information is required. In this case, the Department has 60 days from receipt of a completed registration application to notify the applicant under paragraph (1) or (2).

(d) An applicant shall be registered as a loan broker upon the Department's issuance of written notification to the applicant that the applicant has been registered by the Department as a loan broker.

(e) No abatement of the registration fee will be made for any reason, including a loan broker's initial registration period lasting for less than 1 year or the election by a loan broker to cancel its registration prior to the annual renewal date.

§ 42.4. Annual renewal required.

(a) Annually, the Department will mail to each registered loan broker an application for renewal of the loan broker's registration.

(b) On or before December 1 of each year, a loan broker shall return the following to the Department:

(1) A completed renewal registration application provided by the Department.

(2) Payment of a renewal registration fee of \$300.

(c) On or before January 15 of each year, the Department will take one of the following actions with regard to renewal applications which it received on or before December 1 of the prior year:

(1) Notify the loan broker that the loan broker's registration is renewed.

(2) Under § 42.5 (relating to disapproval of registration), notify the loan broker that the loan broker's renewal registration is rejected and that the loan broker is no longer registered as a loan broker.

(3) Notify the loan broker that the registration application was incomplete and that additional information is required. In this case, the Department has 30 days from receipt of a completed registration application to notify the loan broker under paragraph (1) or (2).

(d) A loan broker who fails to return to the Department by December 1 of each year a completed renewal registration application provided by the Department and payment of a renewal registration fee of \$300 will be subject to a late fee of \$100 upon submission to the Department of a renewal registration application.

(e) The renewal registration shall be effective from February 1 or upon the Department's issuance of written notification to the applicant that the applicant has been registered by the Department as a loan broker, whichever is later, through January 31 of the following year.

§ 42.5. Disapproval of registration.

(a) The Department may refuse to register or renew the registration of an applicant. Notifications of refusal by the Department to register or renew the registration of an applicant shall include the reason for the refusal. In determining whether to refuse to register or renew the registration of an applicant, the Department will weigh all relevant factors including the following:

(1) Whether the applicant has properly and fully completed the registration application or the registration renewal application.

(2) Whether the applicant has supplied false information or made a material misstatement to the Department.

(3) Whether the applicant or any principal or employe of the applicant has violated the act.

(4) Whether the applicant or any principal or employe of the applicant is subject to an administrative order issued by an agency of the Commonwealth, another state or the United States, which supervises or regulates any financial industry, including the lender, broker of loans, securities, annuities, insurance and tax industries.

(5) Whether the applicant, any principal of the applicant or any organization with which the applicant or any principal of the applicant was associated as an officer, director or principal, has applied to any state or to the Federal government for a license or authority to broker loans or to lend money and had the application for a license rejected, and the reasons for the rejection.

(6) Whether the applicant, any principal of the applicant or any organization with which the applicant or any principal of the applicant was associated as an officer, director or principal, which was licensed or authorized by any state or the Federal government to broker loans or to lend money, had the license suspended, canceled or revoked.

(7) Whether the applicant or any principal or employe of the applicant has ever pleaded guilty, pleaded nolo contendere or has ever been found guilty by a judge or jury for violation of any state or Federal law involving financial crimes, including those involving lending, brokering of loans, securities, annuities, insurance and tax matters.

(8) Whether the applicant or any principal or employe of the applicant is subject to a civil or criminal proceeding by any state or Federal agency involving any financial matter, including lending, brokering loans, securities, insurance and tax matters.

(b) The applicant for an initial or renewal registration whose application is disapproved by the Department may appeal the disapproval through the administrative hearing process contained under 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

Cross References

This section cited in 10 Pa. Code § 42.3 (relating to registration required); 10 Pa. Code § 42.4 (relating to annual renewal required); and 10 Pa. Code § 42.6 (relating to information to the Department).

§ 42.6. Information to the Department

(a) In completing the registration application or renewal registration application, the applicant shall provide the Department with the following information:

- (1) The name, address and telephone number of the applicant.
- (2) The address at which the applicant acts or intends to act as a loan broker.
- (3) The names and addresses of all agents and employes of the loan broker who act or will act as a loan broker on behalf of the loan broker.
- (4) The names and addresses of all loan brokers or lenders on whose behalf the applicant acts or will act.
- (5) The names and addresses of all principals of the applicant.
- (6) A copy of its articles of incorporation or fictitious name filing to the extent applicable to the applicant.
- (7) Other information required by the Department consistent with § 42.5(a) (relating to disapproval of registration) and related matters.

(b) A loan broker shall inform the Department within 15-calendar days of any change in address of the loan broker office, changes in ownership, principals and employes of the loan broker. The broker shall include background information regarding new owners, principals or employes of the loan broker consistent with § 42.5(a)(4)—(8), which information also is required by the Department to be provided by the loan broker in a registration application or renewal registration application.

§ 42.7. Failure to register.

A person who acts or holds himself out as a loan broker and is not registered with the Department under this chapter is in violation of the Unfair Trade Practices and Consumer Protection Law (73 P. S. §§ 201-1—209-6.).

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