



Bankers Advisory

COMPLIANCE MONITOR

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Montana Surety Bond Requirements for Mortgage Brokers and Lenders

By Margaret Wright, J.D.

Effective June 18, 2016, entities applying for a mortgage broker or mortgage lender license for the first time in Montana, with no prior business history or a business history of less than one year at the time of application, are now required to purchase a surety bond in the amount of \$25,000.00. Previous to this amendment, ARM 2.59.1735 required the surety bond to be \$50,000.00. The entirety of ARM 2.59.1735 is as follows:

2.59.1735: Determining the Amount of Surety Bond for a New Mortgage Broker or Mortgage Lender

- (1) An entity applying for a license as a mortgage broker or mortgage lender for the first time in Montana shall submit with its application the total combined annual loan production volume for the year preceding the year of application as required by 32-9-123(2)(b), MCA.
- (2) An entity having no prior business history, or a business history of less than one year at the time of application, shall purchase a surety bond in the amount of \$25,000.

The surety bond requirement for mortgage brokers and lenders arises from MCA 32-9-132, in part as follows:

32-9-123: Surety Bond Requirement — Notice of Legal Action

- (1) (a) A mortgage loan originator must be covered by a surety bond in accordance with this section. If a mortgage loan originator is an employee of a licensed mortgage lender or mortgage broker, the surety bond of the licensed mortgage lender or mortgage broker may be used in lieu of a mortgage loan originator's surety bond.
- (b) The bond must run to the state of Montana as obligee and must run first to the benefit of the borrower and then to the benefit of the state and any person who suffers loss by reason of the obligor's or its loan originator's violation of any provision of this part or rules adopted under this part. The department shall use the proceeds of the surety bonds to reimburse borrowers, the department, or bona fide third parties who successfully demonstrate a financial loss because of an act of a mortgage broker, mortgage lender, mortgage servicer, or mortgage loan originator that violates any provision of this part.

- (2) (a) An entity licensed as a mortgage broker, mortgage lender, and mortgage servicer is required to maintain one surety bond for each entity license.
- (b) The amount of the required surety bond must be calculated by combining the annual loan production amounts for all persons originating residential mortgage loans and for all business locations of the mortgage broker or mortgage lender and must be in the following amount:
- (i) \$25,000 for a combined annual loan production that does not exceed \$50 million a year;
 - (ii) \$50,000 for annual loan production of \$50 million but not exceeding \$100 million a year; or
 - (iii) \$100,000 for annual loan production of more than \$100 million a year.
- (c) The amount of the required surety bond for a mortgage servicer is \$100,000.

About the Author

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