Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

The release of this Chapter in Supp. 22-2 replaces Supp. 20-1, 1-48 pages

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

Editor’s Note: The name of the Arizona Department of Financial Institutions was changed to the Department of Insurance and Financial Institutions under Laws 2019, Ch. 252, effective July 1, 2020. The Chapter heading has been updated at the request of the Department (Supp. 22-2).

Questions about these rules? Contact:
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Financial Institutions Division
Address: 100 N. 15th Ave., Ste. 261
Phoenix, AZ 85007
Website: https://difi.az.gov/laws/rulemaking-process
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PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), Administrative Rules Division, accepts state agency rule notice and other legal filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the Administrative Code. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES
The definition for a rule is provided for under A.R.S. § 41-1001. “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE
The Arizona Administrative Code is where the official rules of the state of Arizona are published. The Code is the official codification of rules that govern state agencies, boards, and commissions.

The Code is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the Code. Supplement release dates are printed on the footers of each Chapter.

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

RULE HISTORY
Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the Register volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the Register.

AUTHENTICATION OF PDF CODE CHAPTERS
The Office began to authenticate Chapters of the Code in Supp. 18-1 to comply with A.R.S. § 41-1012(B) and A.R.S. § 5302(1), (2)(d) through (e), and (3)(d) through (e).

A certification verifies the authenticity of each Code Chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the Code includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE
Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the Arizona Administrative Register for recent updates to rule Sections.

ARIZONA REVISED STATUTE REFERENCES
The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a Chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES
Arizona Session Law references in a Chapter can be found at the Secretary of State’s website, www.azsos.gov under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA
It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the Register online at www.azsos.gov/rules, click on the Administrative Register link.

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

PERSONAL USE/COMMERCIAL USE
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Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.
ARTICLE 1. GENERAL

R20-4-101 through R4-4-106 recodified from R4-4-101 through R4-4-106 (Supp. 95-1).

Article 1, consisting of Sections R4-4-101 through R4-4-106 adopted effective August 16, 1991 (Supp. 91-1).

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Article 13, consisting of Sections R20-4-1301 through R20-4-1305, emergency rulemaking renewed at 16 A.A.R. 2165, effective October 24, 2010 for an additional 180 days (Supp. 10-4).

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CHAPTER 4. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - FINANCIAL INSTITUTIONS

ARTICLE 1. GENERAL

R20-4-101. Scope of Article
The rules in this Article apply to all activities of the Superintendent and to the interpretation of all Arizona statutes and rules administered by the Superintendent.

Historical Note
Former Rule 1. Former R4-4-101 repealed, new R4-4-101 adopted effective August 16, 1991 (Supp. 91-3). R20-4-101 recodified from R4-4-101 (Supp. 95-1).

R20-4-102. Definitions
In this Chapter, unless otherwise specified:

1. “Active management” means directing a licensee’s activities by a responsible individual, who:
   a. Is knowledgeable about the licensee’s Arizona activities;
   b. Supervises compliance with:
      i. The laws enforced by the Department of Financial Institutions as they relate to the licensee, and
      ii. Other applicable laws and rules; and
   c. Has sufficient authority to ensure compliance.

2. “Affiliate” has the meaning stated at A.R.S. § 6-901.

3. “Attorney General” means the Attorney General or an assistant Attorney General of the state of Arizona.

4. “Branch office” means any location within or outside Arizona, including a personal residence, but not including a licensee’s principal place of business in Arizona, where the licensee holds out to the public that the licensee acts as a licensee.

5. “Business of a savings and loan association or savings bank” means receiving money on deposit subject to payment by check or any other form of order or request or on presentation of a certificate of deposit or other evidence of debt.

6. “Compensation” means, in applying that term’s definition in A.R.S. §§ 6-901, 6-941, and 6-971, anything received in advance, after repayment, or at any time during a loan’s life. This subsection expressly excludes the following items from those definitions of compensation:
   a. Charges or fees customarily received after a loan’s closing including prepayment penalties, termination fees, reinvestment fees, late fees, default interest, transfer fees, impound account interest and fees, extension fees, and modification fees. However, extension fees and modification fees are compensation if the lender advances additional funds or increases the credit limit on an open-end mortgage as part of the extension or modification;
   b. Out-of-pocket expenses paid to independent third parties including appraisal fees, credit report fees, legal fees, document preparation fees, title insurance premiums, recording, filing, and statutory fees, collection fees, servicing fees, escrow fees, and trustee’s fees;
   c. Insurance commissions;
   d. Contingent or additional interest, including interest based on net operating income; or
   e. Equity participation.

7. “Commercial finance transaction,” as that term is used in this Section’s definitions of the terms “Engaged in the business of making mortgage loans” and “Engaged in the business of making mortgage loans or mortgage banking loans,” means a loan made primarily for other than personal, family, or household purposes.

8. “Control of a licensee,” as used in A.R.S. §§ 6-903, 6-944, or 6-978, does not include acquiring additional fractional equity interests in a licensee by any person who already has the power to vote 51% or more of the licensee’s outstanding voting equity interests.

9. “Correspondent contract,” as that term is used in A.R.S. §§ 6-941, 6-943, 6-971, or 6-973, means an agreement between a lender and a funding source under which the funding source may fund, or is required to fund, loans originated by the lender.

10. “Cushion,” as that term is used in R20-4-1811 or R20-4-1908, means funds that a servicer or lender may require a borrower to pay into an escrow or impound account before the borrower’s periodic payments are available in the account to cover unanticipated disbursements.

11. “Directly or indirectly makes, negotiates, or offers to make or negotiate” and “Directly or indirectly making, negotiating, or offering to make or negotiate,” as those phrases are used in A.R.S. §§ 6-901, 6-941, or 6-971, mean:
   a. Providing consulting or advisory services in connection with a mortgage loan transaction, mortgage banking loan transaction, or commercial mortgage loan transaction;
      i. To an investor, concerning the location or identity of potential borrowers, regardless of whether the person providing consulting or advisory services directly contacts any potential borrowers; or
      ii. To a borrower, concerning the location or identity of potential investors or lenders;
   b. Providing assistance in preparing an application for a mortgage loan transaction, mortgage banking loan transaction, or commercial mortgage banking loan transaction, regardless of whether the person providing assistance directly contacts any potential investor or lender; and
   c. Processing a loan; but
   d. “Directly or indirectly makes, negotiates, or offers to make or negotiate” and “Directly or indirectly making, negotiating, or offering to make or negotiate” do not include:
      i. Providing clerical, mechanical, or word processing services to prepare papers or documents associated with a mortgage loan transaction, mortgage banking loan transaction, or commercial mortgage banking loan transaction;
      ii. Purchasing, selling, negotiating to purchase or sell a mortgage loan, mortgage banking loan, or commercial mortgage banking loan already funded;
      iii. Making, negotiating, or offering to make additional advances on an existing open-ended mortgage loan, mortgage banking loan, or commercial mortgage loan including revolving credit lines;
      iv. Modifying, renewing, or replacing a mortgage loan, a mortgage banking loan, or a commercial mortgage loan already funded, if the parties to and security for the loan are the same as the original loan immediately before the modification, renewal, or replacement, and if no additional funds are advanced and no increase is made in the credit limit on an open-ended loan.

Replacing a loan means making a new loan...
simultaneously with terminating an existing loan.
12. “Electronic record” has the meaning stated at A.R.S. § 44-7002(7).
13. “Employee” means a natural person who has an employment relationship with a licensee that is acknowledged by both the person and the licensee, and:
   a. The person is entitled to payment, or is paid, by the licensee;
   b. The licensee withholds and remits, or is liable for withholding and remitting, payroll deductions for all applicable federal and state payroll taxes;
   c. The licensee has the right to hire and fire the employee and the employee’s assistants;
   d. The licensee directs the methods and procedures for performing the employee’s job;
   e. The licensee supervises the employee’s business conduct and the employee’s compliance with applicable laws and rules; and
   f. The rights and duties under subsections (13)(a) through (e) belong to the licensee regardless of whether another person also shares those rights and duties.
14. “Engaged in the business of making mortgage loans,” as that phrase is used in A.R.S. § 6-902, and “engaged in the business of making mortgage loans or mortgage banking loans,” as that phrase is used in A.R.S. § 6-942, mean the direct or indirect making of a total of more than five mortgage banking loans or mortgage loans, or both, in a calendar year. Each loan counts only once as of its closing date. A person is not “engaged in the business of making mortgage loans or mortgage banking loans” if the person makes loans solely in commercial finance transactions in which no more than 35% of the aggregate value of all security taken by the investor on the closing date is a lien, or liens, on real property.
15. “Exclusive contract,” as that term is used in A.R.S. §§ 6-912 and 6-991.02, means a written agreement in which a loan originator agrees to perform services as a loan originator subject to supervision and control by a person holding a certificate of exemption issued under A.R.S. § 6-912 on an exclusive basis. The agreement provides that the loan originator is expressly prohibited from performing loan origination or modification services for any other person during the time the agreement is in effect.
16. “Generally accepted accounting principles” has the meaning used by the Financial Accounting Standards Board or the American Institute of Certified Public Accountants.
17. “Holds out to the public,” as used in this Section’s definition of “branch office,” means advertising or otherwise informing the public that mortgage banking loans, commercial mortgage loans, or mortgage loans are made or negotiated at a location. “Holds out to the public” includes listing a location on business cards, stationery, brochures, rate lists, or other promotional items. “Holds out to the public” does not include a clearly identified home or mobile telephone number on a business card or stationery.
18. “Loan,” as that term is used in A.R.S. §§ 6-126(C)(6) and (8), means all loans negotiated or closed, without regard to the location of the real property collateral or type of loan.
20. “Person” means a natural person or any legal or commercial entity including a corporation, business trust, estate, trust, partnership, limited partnership, joint venture, association, limited liability company, limited liability partnership, or limited liability limited partnership.
21. “Property insurance,” as that term is used in A.R.S. §§ 6-909 and 6-947, does not include flood insurance as that term is used in the Flood Disaster Protection Act of 1973, as modified by the National Flood Insurance Reform Act of 1994. 42 U.S.C. 4001, et seq.
22. “Reasonable investigation of the background,” as that term is used in A.R.S. §§ 6-903, 6-943, or 6-976 means a licensee, at a minimum:
   a. Collects and reviews all the documents authorized by the Immigration Reform and Control Act of 1986, 8 U.S.C. 1324a;
   b. Obtains a completed Employment Eligibility Verification (Form I-9);
   c. Obtains a completed and signed employment application;
   d. Obtains a signed statement attesting to all of an applicant’s felony convictions, including detailed information regarding each conviction;
   e. Consists with the applicant’s most recent or next most recent employer, if any;
   f. Inquiries regarding the applicant’s qualifications and competence for the position;
   g. If for a loan officer, loan originator, loan processor, branch manager, supervisor, or similar position, obtains a current credit report from a credit reporting agency; and
   h. Investigates further if any information received in the above inquiries raises questions as to the applicant’s honesty, truthfulness, integrity, or competence. An inquiry is sufficient after two attempts to contact a person, including at least one written inquiry.
23. “Record” has the meaning stated at A.R.S. § 44-7002(13).
24. “Registered to do business in this state” means:
   a. If an Arizona corporation, it is incorporated under A.R.S. Title 10, Chapter 1, or a trust,
   b. If a foreign corporation, it either transfers its domicile under A.R.S. Title 10, Chapter 1, or obtains authority to transact business in Arizona under A.R.S. Title 10, Chapter 1, Article 1;
   c. If a business trust, it obtains authority to transact business in Arizona under A.R.S. Title 10, Chapter 18, Article 4;
   d. If an estate, it acts through a personal representative duly appointed by this state’s Superior Court, under the provisions of A.R.S. Title 14, Chapter 3 or 4;
   e. If a trust, it delivers to the Superintendent an executed copy of the trust instrument creating the trust together with:
      All the current amendments, or
      A true copy of the trust instrument certified accurate and complete by a trustee of the trust before a notary public;
   f. If a general partnership, limited partnership, limited liability company, limited liability partnership, or limited liability limited partnership, it is organized under A.R.S. Title 29;
CHAPTER 4. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - FINANCIAL INSTITUTIONS

20 A.A.C. 4

A. As used in this Section:
1. “Deposit” means cash or alternatives to cash deposited by a licensee with the Superintendent in place of a bond.
2. “Depositor” means licensee or an employee of the licensee who makes a deposit with the Superintendent.
3. “Verified claim” means a claim filed with the Superintendent under subsection (B).
4. “Award” means an amount of money granted under subsection (F).

B. A person may file a claim against a deposit by delivering documentation of the claim to the Superintendent. The claim shall be based on a final judgment in favor of the claimant, entered by a court of competent jurisdiction. To support a claim, the judgment shall be:
1. Against a depositor;
2. For injury caused by the depositor’s wrongful act, default, fraud, or misrepresentation committed in the course of the depositor’s licensed business activity; and
3. Documented by:
   a. A certified copy of the complaint in the action;
   b. A certified copy of the judgment in the action;
   c. A statement that execution of the judgment has not been stayed, or an explanation of the terms and reason for any stay;
   d. A statement of any amounts recovered on the judgment; and
   e. A sworn and notarized statement that the claim is true and correct to the best of the claimant’s knowledge and belief.

C. A claimant shall file a claim with the Superintendent, and all required supporting documentation, not more than six months after entry of the judgment asserted in the claim. However, if execution of the asserted judgment is stayed during the first six months after its entry, the claimant may file a verified claim only during the six months after the stay is lifted. The Department shall process a timely-filed verified claim as a request for hearing under R20-4-1208.

D. The claimant shall notify the depositor of the filing of a verified claim under this Section, and make the depositor a party to all proceedings on the claim. To do so, the claimant shall send the depositor a copy of all documents filed under subsection (B). The claimant shall make this delivery no more than 10 days after the original filing with the Superintendent under subsection (B). The Department considers a proceeding on a verified claim to be a contested case, governed by the provisions of 20 A.A.C. 4, Article 12.

E. The Superintendent shall, after a hearing, deny a verified claim if the hearing produces evidence of any of the following circumstances:
1. The judgment is not for an injury caused by the depositor and described in subsection (B)(2);
2. The judgment was awarded by default, stipulation, or consent, and no showing is made in the hearing of an injury caused by the depositor and described in subsection (B)(2);
3. The judgment’s execution has been stayed for any reason;

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4. The judgment was procured through fraud or collusion;
5. The judgment has been satisfied from other sources; or
6. The action that produced the judgment was barred by the applicable statute of limitations at the time it was commenced.

F. If the Superintendent grants a verified claim, the Superintendent shall do so in the amount of the compensatory damages awarded against the depositor in the judgment, exclusive of:
   1. Attorney’s fees, and
   2. Amounts previously paid on the judgment.

G. A person injured by a depositor shall give the Superintendent written notice at the time of filing a civil action if the claims alleged could be made as a verified claim under this Section. The written notice shall include a statement of the amount of compensatory damages sought against the depositor. The injured person shall provide further information about the civil action to the Superintendent upon request.

H. If the Superintendent grants a verified claim under subsection (F), the Superintendent shall authorize the State Treasurer, in writing, to release the deposit to the claimant in the amount stated in subsection (F) if the Superintendent has not received notice of another pending civil action under subsection (G).

I. If given notice under subsection (G), the Superintendent shall determine whether the deposit is sufficient to satisfy all claims under subsection (F). The Superintendent shall determine award amounts for each claim of which the Superintendent has notice, and authorize payment, as follows:
   1. If the deposit is sufficient to satisfy all claims under subsection (F), the Superintendent shall authorize its release as described in subsection (H).
   2. If the deposit is not sufficient to satisfy all claims under subsection (F), the Superintendent shall calculate the award on each claim as follows:
      a. Each granted claim shall receive a pro rata share of the total deposit.
      b. Each pro rata share shall be a dollar amount calculated by multiplying the total deposit by a fraction.
         i. The numerator of the fraction is the amount of the Superintendent’s award for the verified claim.
         ii. The denominator of the fraction is the sum of the amount of the Superintendent’s award for the verified claim plus the total compensatory damages sought in all other civil actions against the same depositor disclosed to the Superintendent under subsection (G).
   c. The Superintendent shall authorize the State Treasurer to release the pro rata portion of the deposit calculated for each verified claim.

J. A depositor or former licensee may request return of its deposit if it substitutes a bond for the deposit, or if its license is surrendered, revoked, or expired, and if all statutory conditions for release of the deposit have been satisfied. The Superintendent shall not release any part of a deposit to a depositor or former licensee until the Superintendent determines whether there are any awards on verified claims unsatisfied because of an apportionment under subsection (I). The Superintendent shall use the deposit amount to pay any unsatisfied portion of those awards. If the deposit amount is not sufficient to pay in full all unsatisfied awards, the Superintendent shall pay the remaining amount of the deposit to claimants in the ratio their awards bear to the total of all awards granted against the deposit.

K. The court supervising a licensee in receivership may order the release of a deposit to persons injured by conduct described in subsection (B). In that event, the receiver shall deliver a certified copy of the court’s order to the Superintendent. The copy may be uncertified if the receiver is the Superintendent or any other officer or agency of the state of Arizona. The Superintendent shall then authorize the State Treasurer, in writing, to release the deposit to the receiver. The receiver shall distribute the deposit as ordered by the receivership court, rather than under this Section.

Historical Note
Adopted effective August 16, 1991 (Supp. 91-3). R20-4-105 recodified from R4-4-105 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 4670, effective November 14, 2000 (Supp. 00-4).

R20-4-106. Bankruptcy
An enterprise licensee or consumer lender licensee shall immediately deliver written notice to the Superintendent if it files a voluntary bankruptcy petition, or if its creditors name the licensee a debtor in an involuntary bankruptcy petition. On the date of each of the following documents’ filing with the bankruptcy court, the licensee shall deliver to the Superintendent a copy of the:
   1. Petition for relief,
   2. Schedule of assets and liabilities,
   3. Statement of financial affairs,
   4. List of creditors, and
   5. Plan of reorganization.

Historical Note
Adopted effective August 16, 1991 (Supp. 91-3). R20-4-106 recodified from R4-4-106 (Supp. 95-1). Amended by final rulemaking at 8 A.A.R. 145, effective December 10, 2001 (Supp. 01-4).

R20-4-107. Licensing Time-frames
A. As used in this Section, “application” means a document specified or described in this Title, or in any statute enforced by the Department, requesting any permit, certificate, approval, registration, charter, or similar permission described in Table A, together with all supporting documentation required by statute or rule.

Historical Note

B. The time-frames in Table A apply solely to applications received by the Department after the effective date of this Section. Each overall time-frame consists of an administrative completeness review time-frame, and a substantive review time-frame. The administrative completeness review time-frame begins to run upon receipt of an application by the Department.
1. Within the administrative completeness review time-frame in Table A, the Department shall notify the applicant in writing whether the application is complete. If the application is incomplete, the notice shall specify the missing information or component.
2. An applicant whose application is incomplete shall supply the missing information within 60 days after the date of the notice. If an applicant shows good cause in writing before the expiration of the 60 day time limit, the Superintendent shall extend the period for administrative completion of an application. The administrative completeness review time-frame stops running on the postmark date of the Department’s written notice of an incomplete application, and resumes when the Department receives a complete application. If the applicant fails to submit a complete application within the specified time limit, the Department shall reject the application and close the file. An applicant may reapply.
3. The substantive review time-frame begins to run on the postmark date of the Department’s written notice that the application is administratively complete.
4. Within the overall time-frame set forth in Table A the Department shall send the applicant written notice of its decision to approve, conditionally approve, or deny a license, unless the time-frame is extended by mutual agreement under A.R.S. § 41-1075. If the Department denies an application, it shall provide written justification for the denial and a written explanation of the applicant’s right to a hearing or appeal in the form required by A.R.S. § 41-1076.

5. The Department shall calculate time limits prescribed in this Section under R2-19-107.

C. The time-frames in this Section apply solely to actions taken by the Department. Nothing in this Section relieves a licensee or applicant of a duty to fulfill any other legal or regulatory requirement that is a condition of its power and authority to engage in business.

Historical Note

Adopted effective September 9, 1998 (Supp. 98-3).
Amended by final rulemaking at 8 A.A.R. 145, effective December 10, 2001 (Supp. 01-4).

Table A. Licensing Time-frames

<table>
<thead>
<tr>
<th>No.</th>
<th>License Type</th>
<th>Legal Authority</th>
<th>Administrative Completeness Review (Days)</th>
<th>Substantive Review (Days)</th>
<th>Overall Time-Frame (Days)</th>
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<tbody>
<tr>
<td>1</td>
<td>Bank</td>
<td>A.R.S. § 6-203, et seq.</td>
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<td>R20-4-211</td>
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<td>45</td>
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<td>2</td>
<td>Bank Trust Dept.</td>
<td>A.R.S. § 6-381</td>
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<td>A.R.S. § 6-203, A.R.S. § 6-204(C)</td>
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<td>45</td>
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<td>3</td>
<td>Savings &amp; Loan</td>
<td>A.R.S. § 6-401, et seq.</td>
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<td>Initial Application</td>
<td>A.R.S. § 6-408, R20-4-327</td>
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<td>150</td>
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<td>Credit Union</td>
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<td>A.R.S. § 6-506(A)</td>
<td>60</td>
<td>60</td>
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<td>5</td>
<td>Trust Company</td>
<td>A.R.S. § 6-851, et seq.</td>
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<td>Initial Application</td>
<td>A.R.S. § 6-854(A)</td>
<td>75</td>
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<td>Consumer Lender</td>
<td>A.R.S. § 6-601, et seq.</td>
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<td>A.R.S. § 6-603(C)</td>
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<td>Debt Management</td>
<td>A.R.S. § 6-701, et seq.</td>
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<td>A.R.S. § 6-704(A), R20-4-602(A)</td>
<td>30</td>
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<td>8</td>
<td>Escrow Agent</td>
<td>A.R.S. § 6-801, et seq.</td>
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<td>A.R.S. § 6-814</td>
<td>60</td>
<td>60</td>
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<tr>
<td>9</td>
<td>Mortgage Broker or Commercial Mortgage Broker</td>
<td>A.R.S. § 6-901, et seq.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Initial Application</td>
<td>A.R.S. § 6-903(C) &amp; (D)</td>
<td>60</td>
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<td>120</td>
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<td>10</td>
<td>Mortgage Banker</td>
<td>A.R.S. § 6-941, et seq.</td>
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<td>A.R.S. § 6-943(D)</td>
<td>60</td>
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<td>11</td>
<td>Commercial Mortgage Banker</td>
<td>A.R.S. § 6-971, et seq.</td>
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<td>A.R.S. § 6-974(A)</td>
<td>60</td>
<td>60</td>
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<tr>
<td>12</td>
<td>Acquisition of Control of Financial Institution</td>
<td>R20-4-1602, R20-4-1702</td>
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<td>Initial Application</td>
<td>A.R.S. § 6-1104</td>
<td>30</td>
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<td>13</td>
<td>Money Transmitter</td>
<td>A.R.S. § 6-1201, et seq.</td>
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<td>Initial Application</td>
<td>A.R.S. § 6-1204(A)</td>
<td>60</td>
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<td>14</td>
<td>Advance Fee Loan Broker</td>
<td>A.R.S. § 6-1301, et seq.</td>
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<td></td>
<td>Initial Application</td>
<td>A.R.S. § 6-1303(A)</td>
<td>30</td>
<td>30</td>
<td>60</td>
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<tr>
<td>15</td>
<td>Premium Finance Co.</td>
<td>A.R.S. § 6-1401, et seq.</td>
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</table>
CHAPTER 4. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - FINANCIAL INSTITUTIONS

<table>
<thead>
<tr>
<th>Article</th>
<th>Initial Application</th>
<th>A.R.S. § 6-1402(C)</th>
<th>Amounts:</th>
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<td>Collection Agency</td>
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<td>17</td>
<td>Motor Vehicle Dealer</td>
<td>A.R.S. § 44-281, et seq.</td>
<td>30</td>
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<tr>
<td>18</td>
<td>Sales Finance Co.</td>
<td>A.R.S. § 44-281, et seq.</td>
<td>30</td>
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<tr>
<td>19</td>
<td>Certificate of Exemption</td>
<td>A.R.S. § 6-912</td>
<td>45</td>
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<tr>
<td>20</td>
<td>Loan Originators</td>
<td>A.R.S. § 6-991, et seq.</td>
<td>60</td>
</tr>
</tbody>
</table>

**ARTICLE 2. BANK ORGANIZATION AND REGULATION**

**R20-4-201. Articles of Incorporation**

A licensee shall deliver to the Superintendent a copy of each amendment to the licensee's articles of incorporation within 30 days after the amendment is filed with the Arizona Corporation Commission. Before delivery to the Superintendent, an officer of the licensee shall:

1. Certify the copy delivered in compliance with this Section, in writing, signed by the certifying officer, attesting to the completeness, accuracy, and authenticity of the certified copy; and
2. Ensure the copy bears a stamp affixed by the Arizona Corporation Commission to evidence filing with the Commission.

**Historical Note**
Former Rule 1. R20-4-201 recodified from R4-4-201 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 811, effective January 10, 2001 (Supp. 01-1).

**R20-4-202. Bylaws**

A licensee shall deliver to the Superintendent a copy of each amendment to the licensee's bylaws within 30 days after the amendment is adopted. An officer of the licensee shall certify the copy delivered in compliance with this Section, in writing, attesting to the completeness, accuracy, and authenticity of the certified copy.

**Historical Note**
Former Rule 2. R20-4-202 recodified from R4-4-202 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 811, effective January 10, 2001 (Supp. 01-1).

**R20-4-203. Repealed**

**Historical Note**
Former Rule 3; Amended subsection (C) effective September 4, 1981 (Supp. 81-5). R20-4-203 recodified from R4-4-203 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

**R20-4-204. Repealed**

**Historical Note**
Former Rule 4. R20-4-204 recodified from R4-4-204 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

**R20-4-205. Repealed**

**Historical Note**
Former Rule 5. R20-4-205 recodified from R4-4-205 (Supp. 95-1). Section repealed by final rulemaking at 6 A.A.R. 3188, effective August 3, 2000 (Supp. 00-3).

**R20-4-206. Bankers Blanket Bond Coverage -- A.R.S. § 6-188**

A. Each bank shall carry at least the following basic blanket bond coverage:

<table>
<thead>
<tr>
<th>Banks with Deposits of</th>
<th>Amounts:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than $750,000</td>
<td>$25,000</td>
</tr>
<tr>
<td>$750,000 to 1,500,000</td>
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</tr>
<tr>
<td>1,500,000 to 2,000,000</td>
<td>75,000</td>
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<td>2,000,000 to 3,000,000</td>
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</tr>
<tr>
<td>3,000,000 to 5,000,000</td>
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<td>5,000,000 to 7,500,000</td>
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<td>7,500,000 to 10,000,000</td>
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<td>1,700,000</td>
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<td>500,000,000 to 1,000,000,000</td>
<td>2,500,000</td>
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<tr>
<td>1,000,000,000 to 2,000,000,000</td>
<td>4,000,000</td>
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<tr>
<td>Over 2,000,000,000</td>
<td>6,000,000</td>
</tr>
</tbody>
</table>

B. Each bank shall supplement the bankers blanket bond coverage with at least a $1,000,000 excess fidelity bond.

Effective 8-8-73.

**R20-4-207. Capital Obligations**

A. An applicant for a Superintendent’s order of approval to issue a capital obligation shall submit the following documents to
A certified copy of the resolution adopted by the Board of Directors, or a certified copy of the unanimous written consent of the Board of Directors, authorizing the sale of the capital obligation;
2. A copy of the agreement underlying the capital obligation;
3. A copy of the note or debenture intended to represent the capital obligation; and
4. A copy of the prospectus, if any, proposed for use in the sale of the capital obligation.

B. Each document evidencing a capital obligation shall:
1. Give the obligation a maturity of at least five years, or
2. In the case of an obligation or issue that provides for scheduled repayments of principal, gives an average maturity of at least five years. The restriction on maturity stated in this subsection does not apply to any obligation that otherwise meets all the requirements of this rule if the Superintendent determines that exigent circumstances require the issuance of the obligation without regard to any restriction on maturity. The provisions of this subsection do not apply to mandatory convertible debt obligations or issues.
3. State expressly on its face that the obligation:
   a. Is subordinated and junior in right of payment to the issuing bank’s obligations to its depositors and to the bank’s other obligations to its general and secured creditors, and
   b. Is ineligible as collateral for a loan by the issuing bank, except as provided in A.R.S. § 6-354.
4. Be unsecured.
5. State expressly on its face that the issuing bank may not retire any part of its capital obligation without the Superintendent’s prior written order of approval, and the prior written consent of the Federal Deposit Insurance Corporation.
6. Include, if the obligation is issued to a depository institution, a specific waiver of the right of offset by the lending depository institution.
7. State that, in the event of liquidation, all depositors and other creditors of the bank are to be paid in full before any payment of principal or interest is made on a capital obligation.

C. No payment shall be made under an optional right of payment before the Superintendent issues the order of approval. The required documents are:

B. Each document evidencing a capital obligation shall:
1. Give the obligation a maturity of at least five years, or
2. In the case of an obligation or issue that provides for scheduled repayments of principal, gives an average maturity of at least five years. The restriction on maturity stated in this subsection does not apply to any obligation that otherwise meets all the requirements of this rule if the Superintendent determines that exigent circumstances require the issuance of the obligation without regard to any restriction on maturity. The provisions of this subsection do not apply to mandatory convertible debt obligations or issues.
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C. No payment shall be made under an optional right of payment before the Superintendent issues the order of approval. The required documents are:

the Superintendent, and shall not issue any capital obligation before the Superintendent issues the order of approval. The required documents are:
1. A certified copy of the resolution adopted by the Board of Directors, or a certified copy of the unanimous written consent of the Board of Directors, authorizing the sale of the capital obligation;
2. A copy of the agreement underlying the capital obligation;
3. A copy of the note or debenture intended to represent the capital obligation; and
4. A copy of the prospectus, if any, proposed for use in the sale of the capital obligation.

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6. Include, if the obligation is issued to a depository institution, a specific waiver of the right of offset by the lending depository institution.
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   b. Is ineligible as collateral for a loan by the issuing bank, except as provided in A.R.S. § 6-354.
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6. Include, if the obligation is issued to a depository institution, a specific waiver of the right of offset by the lending depository institution.
7. State that, in the event of liquidation, all depositors and other creditors of the bank are to be paid in full before any payment of principal or interest is made on a capital obligation.

C. No payment shall be made under an optional right of payment before the Superintendent issues the order of approval. The required documents are:
have and comply with its own record retention schedule that is consistent with this Section. A bank may comply with this Section by complying with a preemptive federal regulation, even if the federal regulation requires a shorter retention period than is listed in this Section. This Section does not prohibit record retention for longer periods than these state-required minimums for any reason, including a retention period established by preemptive federal law or regulation. Likewise, this Section does not prohibit a bank from keeping any type of record not required in subsection (D).

C. Beginning on the effective date of this Section, corporate and business records of a bank operating in the state of Arizona are classified, and their retention periods are prescribed, according to the schedule in subsection (D). Retention periods are listed in subsection (D) using the notations, acronyms, and abbreviations listed in this Section.

1. A numerical designation refers to a period of years unless a shorter period of time is specified in the schedule.
2. “AC” means after closure.
3. “ACH” means automated clearing house.
4. “AE” means after expiration.
5. “ALC” means after last contact.
7. “ATD” means after termination date.
10. “FHA” means the Federal Housing Administration.
14. “IRS” means the United States Department of the Treasury’s Internal Revenue Service.
15. “M” means months.
16. “P” means the bank shall keep the record permanently.
17. “PMI” means private mortgage insurance.
18. “SAR” means a suspicious activity report required by the federal Bank Secrecy Act.
19. “TTL” means a treasury, tax, and loan account maintained by a bank.
20. “UCC” means the Uniform Commercial Code as it is in effect in Arizona.

D. Retention Schedule

1. Accounting and Auditing
   a. Accrual and bond amortization  3
   b. Audit report  6
   c. Audit work papers  3
   d. Bank call, income and dividend report  5
   e. Bill, statement, or invoice - paid  7
   f. Budget work papers  2
   g. Collateral vault “in-and-out” ticket  1
   h. Daily reserve computation  1
   i. Earnings report  7
   j. Expense voucher or invoice  7
   k. Financial statement  7
   l. Interoffice reconciliation  1
   m. Interoffice transaction  1
   n. Periodic statement for account owned by the bank  2
   o. Reconciliation of deposits-due to bank  2
   p. Reconciliation register-due from bank  2
   q. Return and cash item register  1
   r. Service contract  2
   s. Treasury tax and loan account  2
   t. Unclaimed property record  7

2. Administration
   a. Articles of incorporation or association, bylaws, or other record of organization  P
   b. Bankers blanket bond-record showing compliance 5
   c. Bank examiner’s report  7
   d. Capital note issuance and transfer record  P
   e. Depreciation record-office equipment  3
   f. Dividend check and register  7
   g. Dividend check-outstanding  P
   h. Expired policy insuring the bank  3
   i. FDIC assessment base, record  5
   j. FDIC certificate  P
   k. Insurance policy number, record of premium paid and amount recovered  3 AE
   l. Legal proceedings when completed  5
   m. Minute book of:
      i. Meetings of the board of directors  P
      ii. Meetings of committees of the board of directors  P
      iii. Shareholders’ meetings  P
   n. Postage meter record book (from date of final entry)  1
   o. Real estate documentation  5 ATD
   p. Report to directors  3
   q. Stock issuance and transfer record  P
   r. Required report to supervisory agency  3
   s. Tax controversy or proceeding when completed  7
   t. Tax record not material to any controversy  7
   u. Voting list and proxies  3

3. Collections
   a. Collection payment record  1
   b. Collection receipt-carbon  1
   c. Collection register  1
   d. Coupon cash letter-outgoing  1
   e. Coupon envelope  1
   f. Customer file copy  1
   g. Incoming collection letter  1
   h. Incoming contract or note letter  1

4. Customer service
   a. Broker account holder-identification  5
   b. Broker’s confirmation  3
   c. Broker’s invoice  3
   d. Broker’s statement  3
   e. E-Bond application  2
   f. E-Bond sold or redeemed-record  2
   g. E-Bond transmittal letter  2
   h. Lock box daily receipts  1
   i. Night depository agreement  1
   j. Night depository daily record  1
   k. Safekeeping record and receipt  5
   l. Securities buy order and sell order  3

5. Data processing (management information systems)
   a. Back-up data (for reconstruction) daily, end of month, quarter, or year  1
   b. Disaster recovery program  P
   c. Film copy of every IRS financial reporting form  6
   d. Program change  P
   e. System, program and procedure manual  P

6. Deposits
   a. Account opened and account closed report  1
   b. Certificate of deposit purchase record  7
   c. Check paid, withdrawal slip, and other debits to account  7
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d. Club account check register 1

e. Club account coupon 1

f. SAR - for suspicious transaction under $10,000 5
g. CTR - for transaction exceeding $10,000 5

h. Customer authorization, resolution, and signature card 6 AC

i. Deposit account record needed to reconstruct 7

j. Deposit and other credits 7

k. Dormant account – after closed or escheated 7 ALC

l. Form 1096, and 1099 reports to IRS 7

m. Individual retirement account record 7

n. Interest check or other record of interest payment and reports 7

o. Internal management reports:

i. Large balance 1

ii. Overdraft 1

iii. Public funds 1

iv. Service charges 1

v. Stop payment 1

vi. Uncollected funds 1

vii. Unposted item 1

viii. Zero balance 1

p. Ledger card 5 AC

q. Power of attorney document 7 ATD

r. Receipt for statement held at customer’s request 1

s. Record showing compliance with the following federal regulations. The stated retention period applies unless, and until, it is preempted by federal law:

i. Regulation CC, Expedited Funds Availability Act 2

ii. Regulation DD, Truth in Savings Act 2

iii. Regulation E, Electronic Funds Transfer Act 2

t. Returned statement and cancelled checks 6

u. Statement 6

v. Stop payment order 6 AE

w. Document used to request and receive Tax Identification Number 6

x. Transaction journal 6

y. Trial balance 6

7. Due from banks

a. Advice from correspondent bank 1

b. Bank statement 1

c. Draft-original 7

d. Draft register or copy 1 AP

e. Duplicate check-information and documentation pertaining to issuance 7

f. Reconciliation register 1

8. Due to banks

a. Account opened and account closed-reports 1

b. Advice-copy 1

c. Incoming cash letter memo for credit 1

d. Incoming cash letter for remittance 1

e. Reconciliation register (TTL) 2

f. Reconciliation verification 1

g. Resolution 2 AC

h. Signature card 6 AC

i. Trial balance (fiche) 7

j. Undelivered statement, reconstruction available from bank records 1

k. Undelivered statement, reconstruction not possible 7

9. General

a. Address change order 1

b. Affidavit from customer including affidavit of loss, forgery, or non-use of cashier’s check 1

c. Writ of attachment or garnishment 5
d. Attachment, release 5

e. Armored car receipt 1

f. Check book order 1

g. Check book-receipt 1

h. Court order memorandum record 5

i. Notice of Protest 1

j. Travelers check-application 2

k. Vault record-opening and closing 1

l. Wire transfer debit entry and credit entry 7

10. General ledger

a. Daily statement of condition 3

b. General journal-if byproduct of posting the general ledger 3

c. General journal-if used as book of original entry with description 3

d. General ledger 5

e. General ledger ticket-debit and credit 2

11. International department

a. Broker account holder-identification 5

b. Cable copy 7

c. Cable requisition 7

d. Correspondence 2

e. Draft 7

f. Foreign collection register 6

h. Foreign draft application 6

i. Foreign draft-carbon 2 ATD

j. Foreign exchange remittance sheet or book 6

k. Foreign financial account-record 7

l. Foreign mail transfer application 2

m. Foreign mail transfer-carbon 2 ATD

n. Foreign outstanding cash 2

o. Foreign payment-incoming 2

p. Letter of credit application 2

q. Letter of credit ledger sheet 7

r. Transfer outside of the United States in excess of $10,000 – record 5

12. Investments

a. Bonds

i. Amortization record 6

ii. Confirmation 3

iii. Safekeeping receipt 2

b. Broker’s securities

i. Broker’s invoice 3

ii. Broker’s statement 3

iii. Report of lost or stolen securities 3

iv. Safekeeping advice 2

v. Taxpayer identification number 5

c. Commercial paper

i. Broker’s advice 2

ii. Purchase order 2

iii. Remittance advice 2

d. Mortgage-backed securities

i. Buy-and-sell agreement 3

ii. Commitment letter 7

iii. FHLMC and FNMA loan file 7

iv. GNMA certificate 7

v. Interest accrual record 7

vi. Monthly remittance report 7

13. Loans. A bank shall keep each loan record listed for the period required by this subsection. These periods are measured from the date of final activity. A bank shall have and comply with its own record retention schedule that is consistent with this subsection. A bank may comply with this subsection by complying with a preemptive federal regulation, even if the federal regulation requires a shorter retention period than is listed in this subsection.
This subsection does not prohibit record retention for longer periods than these state-required minimums for any reason, including a retention period established by preemptive federal law or regulation. Likewise, this Section does not prohibit a bank from keeping any type of record not required by this subsection.

a. All Loans - general
   i. Application for loan approved 6
   ii. Appraisal 6
   iii. Borrower’s financial statement 6
   iv. Charge-off record 10
   v. Charged off note 10
   vi. Collateral file 6
   vii. Correspondence 6
   viii. Credit file – all documentation 6
   ix. Credit report 6
   x. Daily proof and record 6
   xi. Loan committee minutes P
   xii. Miscellaneous loan reports including new loan journal, paid loan journal, past due report, and transaction journal as original entry 6
   xiii. Other documentation for reconstruction of loan 2

b. Commercial loans
   i. Application for loan denied 12 M
   ii. Bill of sale 6
   iii. Borrowing resolution 3
   iv. Business annual report (fiscal or year end) - after date of report 3
   v. Business cash-flow analysis report - after date of report 3
   vi. Business tax return - after date of return 6
   vii. Commitment letter 6
   viii. Copy of mortgage note or deed of trust 6
   ix. Evidence of insurance 6
   x. Guaranty 6
   xi. Letter of credit 6
   xii. Participation agreement 6
   xiii. Promissory note 6
   xiv. Purchase and sale agreement 6
   xv. Security agreement 6
   xvi. Title documentation 6
   xvii. UCC filing 6

c. Consumer loans
   i. Application for loan denied, including adverse action notice 25 M
   ii. Collateral record 6
   iii. Hazard insurance record 6
   iv. Invoice 6
   v. Life and disability insurance record 6
   vi. Overdraft loan agreement 6
   vii. Promissory note and modification agreement - copy 6
   viii. Title documentation 6
   ix. UCC filing - copy 6

d. Real estate loans
   i. Assignment of escrow 6
   ii. Assumption 6
   iii. Commitment letter 6
   iv. Copy of deed of trust or mortgage note, as it may have been modified 6
   v. Escrow analysis and record 6
   vi. Evidence of any FHA or PMI insurance required 6
   vii. Hazard insurance life of loan 6
   viii. Proof of insurance excluding hazard 6
   ix. Sales contract 6
   x. Settlement sheet 6
   xi. Survey 6
   xii. Title documentation 6

e. Construction loans. In addition to the documents specified in subsection (d), a bank shall keep a record for a construction loan as specified in this subsection:
   i. Certificate of occupancy 6
   ii. Construction progress report 6
   iii. Contractor’s cost breakdown 6
   iv. Disbursement documentation 6
   v. Inspection report 6
   vi. Residential construction specifications and material list 6

14. Official checks and drafts
   a. Affidavit, bond, indemnity agreement, other documentation supporting the issuance of a duplicate check or draft 7
   b. Bank draft 3
   c. Cashier’s check-cancelled 7
   d. Cashier’s check register-copy 7
   e. Expense check-cancelled 7
   f. Expense check register-copy 7
   g. Expense voucher or invoice 7
   h. Money order-bank or personal 7
   i. Money order register-copy 7
   j. Official check outstanding P

15. Personnel Records
   a. Attendance record, and time card 3
   b. Authorization for payroll deduction 2
   c. Department of labor report 5
   d. Disability record 5
   e. Employee record and personnel folder 5
   f. Employment application 3 AT
   g. Insurance record 2
   h. Payroll check 2
   i. Pension fund record 10
   j. Profit sharing fund record 10
   k. Rejected employee application 2
   l. Salary ledger or electronic data processing printout 4
   m. Salary receipt 2
   n. W-3 reconciliation of income tax withheld from wages 3
   o. W-4 withholding exemption certificate 3
   p. Wage and tax statement record (W-2) 7
   q. Wage differential documentation (Fair Labor Standards Act) 3

16. Registered mail
   a. Marine insurance book 3
   b. Record of incoming and outgoing registered mail 1
   c. Return receipt card 3

17. Safe deposit vault
   a. Access ticket or card 6
   b. Court order and correspondence 6
   c. Delivery of will, burial plot deed, insurance policy-receipt 6
   d. Forced entry record 6
   e. Lease or contract-closed account 2 AC
   f. Ledger record of account 1
   g. Opened box contents-record and report 7
   h. Rent receipt-copy 1
   i. Sale to satisfy lien-record 7
   j. Signature card, authorization, and resolution 6 AC

18. Tellers
20 A.A.C. 4

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Title 20

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a. Mail teller envelope 3 M
b. Teller's balancing recap or recap book 1
c. Teller's cash ticket-original and carbons 1
d. Teller's cash shipment record 1
e. Teller's exchange ticket 1
f. Teller's machine tape 1

19. Transit, proof, and clearing

a. ACH entry 6
b. Advice of correction to deposit 2
c. Clearinghouse settlement sheet - recapitulation of checks delivered to the clearinghouse or federal reserve 2
d. Record of items processed 6
e. Proof machine tape or other record 2
f. Receipt for transit letter 1
g. Return item letter 5

20. Trust department administration

a. Appraisal of real or personal property held as a trust asset 3 AC
b. Correspondence 3 AC
c. Decree or receipt and release 3 AC
d. Fee record and supporting data 3 AC
e. Intermediate and final account 3 AC
f. Legal documentation including judgment, court order, and legal opinion 3 AC
g. Paid bill 3 AP
h. Real estate insurance policy 1 AE
i. Real estate and mortgage document 3 AC
j. Receipt for asset received or delivered 3 AC
k. Record of asset tax cost 3 AC
l. Summary card, original instrument, agreement and amendment, and letters of appointment 3 AC
m. Synopsis sheet 3 AC

21. Corporate trust

a. Bond registration journal 3 AC
b. Bond-cancelled 7
c. Indemnity bond P
d. Certification 2
e. Coupon envelope 6 M
f. Coupon-cancelled 6 M
g. Customer receipt 7
h. Dividend and coupon record 3 AC
i. Dividend and interest disbursement check and list 3 AC
j. General ledger ticket 2
k. Legal paper P
l. Copy of cancelled stock certificate, original returned to customer 1
m. Stock registration journal 3 AC
n. Stock transfer memo 1
o. Stock transfer receipt 1
p. Tax return 3 AC
q. Transfer-supporting papers 3 AC
r. Transfer journal 3 AC
s. Transfer tax waiver 3 AC
t. Trust ledger-corporate 7

22. Personal trust

a. Record of previously discharged fiduciary
   i. Accounting 3 AC
   ii. Decree 3 AC
   iii. Receipt and release 3 AC
b. Accounting – recorded 3 AC
c. Advice of payment - securities department regarding bond and coupon collection 3 AC
d. Appraisal
   i. Real property 3 AC
h. Broker’s statement 7
i. Buy and sell order 7
j. Cash documentation
   i. Customer cash and asset statement 7
   ii. Cash and security journal 7
   iii. Cash trial balance 1
k. Common trust fund annual report 10
l. Correspondence
   i. Transfer letter 3 AC
   ii. Claim letter 3 AC
m. Coupon collection record 7
n. Court accounting and petition 7
o. Daily transaction journal 6 M
p. Debits and credits-daily 1
q. Documentation necessary to support account decision 3 AC
r. Tax Documentation
   i. Federal estate tax return 10
   ii. State estate tax return 10
   iii. Tax-related work papers 10
iv. Federal gift tax return 10
s. Fee calculations and supporting data 1

23. Other personal trust records

a. Legal opinion 3 AC
b. Correspondence related to legal opinion 3 AC
c. Paid bill 7
d. Review and recommendation 3 AC
e. Safekeeping record and receipt 3 AC
f. Security ledger sheet P
g. Trust check 10
h. Trust entry-original 3 AC
i. Trust or agency agreement-original 3 AC
j. Vault withdrawal and deposit ticket 7
k. Will-certified copy P
l. Work papers supporting tax return 7

24. Trust Investments

a. Annual report
   i. Common trust fund 10
   ii. Pooled fund 10
b. Valuation
   i. Common trust fund 10
   ii. Pooled fund 10
c. Minutes
   i. Investment committee P
   ii. Trust committee P

25. Wire transfer
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a. Incoming wire log 1
b. Outgoing wire log 1
c. Transmission record 7
d. Wire transfer request 7

Historical Note
Former Rule 14. R20-4-214 recodified from R4-4-214 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 4142, effective September 12, 2001 (Supp. 01-3). Missing notation in subsection (D)(1)(j) corrected as proposed at 7 A.A.R. 2491 (Supp. 20-1).

R20-4-215. Trust Business
All banks authorized to conduct trust business under their banking permit shall comply with the applicable requirements of R20-4-808 through R20-4-816.

Historical Note
Adopted effective June 30, 1977 (Supp. 77-3). R20-4-215 recodified from R4-4-215 (Supp. 95-1).

ARTICLE 3. EXPIRED

R20-4-301. Expired

Historical Note
Former Rule 1. R20-4-301 recodified from R4-4-301 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 841, effective March 14, 2017 (Supp. 17-1).

R20-4-302. Repealed

Historical Note
Former Rule 2; Repealed effective January 19, 1984 (Supp. 84-1). R20-4-302 recodified from R4-4-302 (Supp. 95-1).

R20-4-303. Expired

Historical Note
Former Rule 3. R20-4-303 recodified from R4-4-303 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 841, effective March 14, 2017 (Supp. 17-1).

R20-4-304. Expired

Historical Note
Former Rule 4. R20-4-304 recodified from R4-4-304 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 841, effective March 14, 2017 (Supp. 17-1).

R20-4-305. Repealed

Historical Note
Former Rule 5. R20-4-305 recodified from R4-4-305 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-306. Repealed

Historical Note
Former Rule 6. R20-4-306 recodified from R4-4-306 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-307. Repealed

Historical Note
Former Rule 7. R20-4-307 recodified from R4-4-307 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-308. Repealed

Historical Note
Former Rule 8. R20-4-308 recodified from R4-4-308 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-309. Expired

Historical Note
Former Rule 9. R20-4-309 recodified from R4-4-309 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 841, effective March 14, 2017 (Supp. 17-1).

R20-4-310. Reserved

R20-4-311. Repealed

Historical Note
Former Rule 11; Repealed effective January 19, 1984 (Supp. 84-1). R20-4-311 recodified from R4-4-311 (Supp. 95-1).

R20-4-312. Repealed

Historical Note
Former Rule 12. R20-4-312 recodified from R4-4-312 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-313. Reserved

R20-4-314. Repealed

Historical Note
Former Rule 15. R20-4-315 recodified from R4-4-315 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-315. Repealed

Historical Note
Former Rule 16. R20-4-316 recodified from R4-4-316 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-316. Repealed

Historical Note
Former Rule 17; Repealed effective January 19, 1984 (Supp. 84-1). R20-4-317 recodified from R4-4-317 (Supp. 95-1).

R20-4-317. Repealed

Historical Note
Former Rule 18. R20-4-318 recodified from R4-4-318 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 841, effective March 14, 2017 (Supp. 17-1).

R20-4-318. Expired

Historical Note
Former Rule 19. R20-4-319 recodified from R4-4-319 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-319. Repealed

Historical Note
Former Rule 20. R20-4-320 recodified from R4-4-320 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).
R20-4-321. Repealed

R20-4-322. Repealed

R20-4-323. Repealed

R20-4-324. Expired

R20-4-325. Expired

R20-4-326. Expired

R20-4-327. Expired

R20-4-328. Expired

R20-4-329. Repealed

R20-4-330. Expired

R20-4-331. Repealed

ARTICLE 4. CREDIT UNIONS

R20-4-401. Fidelity Bond Coverage
A. A credit union shall have a fidelity bond in the form and in the amount required to maintain federal insurance on its accounts.
B. A fidelity bond purchased by a credit union to comply with this Section shall include faithful-performance-of-duty coverage.
C. A credit union shall purchase its fidelity bond from an insurer that holds a certificate of authority from the Arizona Director of Insurance to transact surety business in Arizona.

ARTICLE 5. SMALL LOANS

R20-4-501. Repealed

R20-4-502. Repealed

R20-4-503. Adjustments in Precomputed Charges
A licensee shall adjust the total precomputed charges if the first installment period is more or less than one month long. The licensee’s records shall reflect the adjustment’s collection in one of three ways.
1. In the first installment payment,
2. Amortized over the life of the contract, or
3. As part of the final payment.

R20-4-504. Repealed

R20-4-505. Repealed
R20-4-506. Repealed

R20-4-507. Repealed

R20-4-508. Cut-off Date for Computing Refunds upon Early Repayment in Full
If a borrower repays a loan before the due date of the final installment, a licensee shall calculate any refund or credit due on the precomputed loan using the following rules:

1. A licensee shall credit any full repayment, made on or before the 15th day following an installment date, as if received on the last previous installment date.
2. A licensee shall credit any full repayment, made on or after the 16th day following an installment date, as if received on the next installment date.

R20-4-509. Repealed

R20-4-510. Repealed

R20-4-511. Repealed

R20-4-512. Reserved

R20-4-513. Repealed

R20-4-514. Repealed

R20-4-515. Repealed

R20-4-516. Repealed

R20-4-517. Repealed

R20-4-518. Deferral Fee
A. A licensee may collect a deferral fee at the time it agrees to a deferment or at any time after the assessment of a deferral fee. If a licensee receives a payment when it agrees to the deferment, it may apply the payment first to the deferral fee. Any remainder of the payment shall be applied to the balance of the loan.

B. If a licensee receives a payment that is large enough to pay in full a delinquent installment and all allowable delinquency fees, the licensee shall apply the payment first to the delinquent installment and fees. The licensee shall not show the paid installment as deferred, and shall not collect a deferral fee.

R20-4-519. Deferment Statement
A licensee shall give the borrower a statement at the time a deferment is made, and shall retain a copy of the statement in the borrower’s credit file. The statement shall contain the following information:

1. The amount of the deferral fee,
2. The date of the borrower’s next scheduled payment,
3. The amount of the borrower’s next scheduled payment, and
4. The extended maturity date of the loan.
CHAPTER 4. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - FINANCIAL INSTITUTIONS

R20-4-523. Repealed

Historical Note
Former Rule 22. R20-4-523 recodified from R4-4-522 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-524. Books, Accounts, and Records

A. A licensee may use a computer recordkeeping system if the licensee gives the Superintendent advanced written notice that it intends to do so. The Department shall not require a licensee to keep a written copy of its books, accounts, and records if the licensee can generate all information required by this Section in a timely manner for examination or other purposes. A licensee may modify a computer recordkeeping system’s hardware or software components. When requested, or in response to a written notice of an examination, a licensee shall report to the Superintendent any modification that changes a computer system back to a paper-based recordkeeping system;

B. A licensee shall keep its books, accounts, and records of operations licensed under A.R.S. Title 6, Chapter 5 separate from the books, accounts, and records of its other business activities.

C. In addition to any statutory requirements, the books, accounts, and records maintained by a Small Loan Company shall include the following:

1. A file containing a record of all legal actions brought during the fiscal year. A licensee shall keep the file until the Department of Financial Institutions conducts its examination of the licensee.

2. An itemized record of disbursing the proceeds of each loan. The itemized record shall include the amount of refund on each loan that is renewed or refinanced if the licensee makes precomputed loans.

3. A record of the receipt of all allowable fees.

4. A record for each borrower and each loan that contains documentary evidence of filing or recording each instrument of record for the loan.

5. A record of the borrower’s voluntary election to purchase any insurance in connection with a loan, if that insurance is sold by the licensee.

Historical Note
Former Rule 23. R20-4-524 recodified from R4-4-523 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-525. Repealed

Historical Note
Former Rule 24. R20-4-525 recodified from R4-4-524 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 4605, effective November 14, 2000 (Supp. 00-4).

R20-4-526. Repealed

Historical Note
Former Rule 25. R20-4-526 recodified from R4-4-525 (Supp. 95-1). Section repealed by final rulemaking at 6 A.A.R. 4605, effective November 14, 2000 (Supp. 00-4).

R20-4-527. Repealed

Historical Note
Former Rule 26. R20-4-527 recodified from R4-4-526 (Supp. 95-1). Section repealed by final rulemaking at 6 A.A.R. 4605, effective November 14, 2000 (Supp. 00-4).

R20-4-528. Repealed

Historical Note
Former Rule 27. R20-4-528 recodified from R4-4-527 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-529. Repealed

Historical Note
Former Rule 28. R20-4-529 recodified from R4-4-528 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-530. Repealed

Historical Note
Former Rule 29. R20-4-530 recodified from R4-4-530 (Supp. 95-1). Section repealed by final rulemaking at 6 A.A.R. 4605, effective November 14, 2000 (Supp. 00-4).

R20-4-531. Repealed

Historical Note
Former Rule 30. R20-4-531 recodified from R4-4-531 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-532. Repealed

Historical Note
Former Rule 31. R20-4-532 recodified from R4-4-532 (Supp. 95-1). Section repealed by final rulemaking at 6 A.A.R. 3380, effective August 3, 2000 (Supp. 00-3).

R20-4-533. Reserved

R20-4-534. Insurance

A. A licensee shall obtain written evidence of the borrower’s voluntary election to purchase insurance in connection with a loan if the licensee’s sale of insurance to the borrower is intended to secure repayment of a loan. The licensee shall retain this evidence of voluntary election in its records as required by statute. A document sufficient to comply with this Section shall read as follows:

TO SECURE REPAYMENT OF MY LOAN, I ELECT TO PURCHASE INSURANCE IN THE AMOUNT OF $ ____________ .

I UNDERSTAND THAT MY TOTAL LOAN OBLIGATION IS THE SUM OF $ ____________ .

B. A licensee shall obtain written evidence of the borrower’s voluntary election to purchase property insurance in connection with a loan if the licensee’s sale of property insurance to the borrower is intended to secure repayment of a loan. The licensee shall retain this evidence of voluntary election in its records as required by statute. A document sufficient to comply with this Section shall read as follows:

TO SECURE REPAYMENT OF MY LOAN, I ELECT TO PURCHASE PROPERTY INSURANCE IN THE AMOUNT OF $ ____________ .

I ATTEST THAT THE VALUE OF MY PROPERTY INSURED IN CONNECTION WITH THIS LOAN IS THE SUM OF $ ____________ .
CHAPTER 4. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - FINANCIAL INSTITUTIONS

R20-4-602. Applications

A. An applicant for a debt management company license shall send the Department an application on the form required by the Superintendent. The Department shall order a credit report from a local credit reporting agency disclosing the credit history of the applicant’s principals or managing agents. The Department shall direct the credit reporting agency to send the Department an application on the form required by the Superintendent, for each of the applicant’s principals, directors, trustees, partners, or managing agents.

B. A debt management company applying to operate a branch office or use an agency shall send the Department an application on the form required by the Superintendent.

C. A debt management company applying to renew a license shall deliver, on or before June 15 of each year, an application for renewal, a debt management company shall include the renewal fee described in A.R.S. § 6-706 and specified in A.R.S. § 6-126(C)(2).

D. The Department may require additional information the Superintendent considers necessary in connection with an application under this Section.

R20-4-603. Reports

A. Each debt management company and each nonprofit corporation organizing or association exempt from licensure under A.R.S. § 6-702(4) and (5), shall send the Department an annual report of its business and operations for each place of business during the previous year beginning July 1 and ending June 30, using the form required by the Superintendent. A debt management company shall deliver its report to the Department on or before August 15.

B. Each debt management company organized as a corporation shall send the Department a copy, date-stamped by the Arizona Corporation Commission, of each annual report and certificate of disclosure filed under the authority of A.R.S. § 10-202 or 10-1622 within ten days of filing the report and certificate with the Arizona Corporation Commission.

C. Each debt management company shall notify the Department of any change in its ownership or in the names of its officers, directors, trustees, partners, or managing agents within ten days of the change.

R20-4-604. Records

A. A debt management company shall keep books, accounts, and records adequate to provide a clear and readily understandable record of all its business activity. A debt management company may use an electronic recordkeeping system. The Department shall not require a debt management company to keep a written copy of its books, accounts, and records if the debt management company can generate all information and documentation required by this Section within three days of the Department’s request for production of the records for examination or other purposes. A debt management company’s books, accounts, and records shall include:

1. A file for each account containing:
   a. A copy of all correspondence concerning the account;
   b. Evidence of the notice given to creditors of the debt management contract;
   c. A subsidiary ledger disclosing all financial transactions concerning the account;
   d. A copy of each written statement of account given to the debtor;
   e. The original budget analysis required under R20-4-607; and
   f. The original contract between the debt management company and the debtor, including all amendments.

2. A trust account general ledger, kept current daily, that reflects each deposit to and disbursement from the trust account.

3. Each reconciliation of the debt management company’s trust account, prepared at least once a month.
4. A general ledger, kept current monthly, that reflects each financial transaction by the debt management company except those recorded in its trust account general ledger.

5. A financial statement produced in accordance with generally accepted accounting principles at least once every three months, or more frequently if directed by the Superintendent, that reflects the financial condition of the debt management company. The financial statement shall include:
   a. A balance sheet,
   b. A statement of income and retained earnings,
   c. A statement of changes in financial condition, and
   d. Appropriate footnotes that either:
      i. Explain entries in the documents listed in subsections (A)(5)(a), (b), and (c);
      ii. Contain material information not required or not reportable in documents listed in subsections (A)(5)(a), (b), or (c); or
      iii. Contain other disclosures required by generally accepted accounting principles.

6. A record of all pending litigation naming the debt management company as a party. The debt management company shall keep, during the pendency of each case, a copy of the complaint, and a copy of any answer or motion filed by the debt management company in response to the complaint.

B. All records required under this Section may be maintained at the debt management company’s office in Arizona. A debt management company may keep its records outside this state if:
   1. Makes the records available to the Superintendent, for examination or other purposes, in this state not more than three business days after demand; and
   2. Allows its debtor customers to call toll free to obtain information from the records that is not available from the debt management company’s office in Arizona.

C. Each debt management company shall preserve its books, accounts, and records for the period required by A.R.S. §§ 6-709(J) and 6-710(1).

R20-4-605. Reserved

R20-4-606. Reserved

R20-4-607. Budget Analysis

A. A debt management company shall not accept an account unless it first concludes that the debtor can reasonably meet the payments agreed upon by the debt management company and the debtor. The debt management company’s conclusion shall be supported by a written budget analysis kept in the company’s records.

B. The written budget analysis shall either be part of an application form or a separate document. The debtor shall date and sign the written budget analysis before the debt management company draws any conclusions from the budget analysis.

C. The budget analysis shall disclose the disposable income available for payment to the debt management company after the debtor pays its reasonable and necessary living expenses including taxes, insurance, child support, alimony, and residential rent or mortgage payments.
liabilities together with all balances held for debtors as reflected in the company’s subsidiary ledgers.

C. Except as otherwise provided by this Section, or in a specific ruling by the Superintendent, a debt management company shall use generally accepted accounting principles to compute assets and liabilities.

Historical Note
Adopted effective October 26, 1978 (Supp. 78-5). R20-4-612 recodified from R4-4-612 (Supp. 95-1). Amended by final rulemaking at 8 A.A.R. 2708, effective June 6, 2002 (Supp. 02-2).

R20-4-613. Reserved
R20-4-614. Reserved
R20-4-615. Reserved
R20-4-616. Reserved
R20-4-617. Reserved
R20-4-618. Reserved
R20-4-619. Reserved
R20-4-620. Repealed

Historical Note
Adopted effective October 26, 1978 (Supp. 78-5). R20-4-620 recodified from R4-4-620 (Supp. 95-1). Section repealed by final rulemaking at 8 A.A.R. 2708, effective June 6, 2002 (Supp. 02-2).

ARTICLE 7. ESCROW AGENTS

R20-4-701. Change in Location of Business
An escrow agent shall mail the Superintendent written notice of any change in the location of the escrow agent’s business. The escrow agent shall ensure that the Superintendent receives the notice at least five days before the escrow agent conducts business at the new location. The escrow agent shall mail the fee required by A.R.S. § 6-126(A), together with the current escrow license, to the Superintendent with the notice of the location change. The Superintendent shall submit the received notice to reflect the new business location and return it to the escrow agent.

Historical Note
Former Rule 1. R20-4-701 recodified from R4-4-701 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 5385, effective September 30, 2014 (Supp. 15-1).

R20-4-702. Account Practices and Records
An escrow agent shall maintain records to enable the Superintendent to reconstruct the details of each escrow transaction. The records shall include the following:
1. The seller’s name and address;
2. The buyer’s name and address;
3. The lender’s name and address, if any;
4. The borrower’s name and address, if any;
5. The real estate agent’s name and address, if any;
6. Complete escrow instructions;
7. Records and supporting documentation for each receipt and disbursement made through the escrow; and
8. A copy of the escrow settlement.

Historical Note
Former Rule 2. R20-4-702 recodified from R4-4-702 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 5385, effective November 9, 2001 (Supp. 01-4).

R20-4-703. Preservation of Records
An escrow agent shall preserve the records, books, and accounts pertaining to each escrow transaction for at least three years following the final settlement date of the transaction. An escrow agent may use an electronic recordkeeping system. The Department shall not require an escrow agent to keep a written copy of the records, books, and accounts if the escrow agent can generate all information and copies of documents required by A.R.S. § 6-831 in a timely manner for examination or other purposes.

Historical Note
Former Rule 3. R20-4-703 recodified from R4-4-703 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 5385, effective November 9, 2001 (Supp. 01-4).

R20-4-704. Subsidiary Account Records
An escrow agent shall maintain subsidiary account records that identify the funds deposited in each escrow. The total of all credit balances in the subsidiary accounts shall always equal the balance of the general ledger control account.

Historical Note
Former Rule 4. R20-4-704 recodified from R4-4-704 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 5385, effective November 9, 2001 (Supp. 01-4).

R20-4-705. Reserved
R20-4-706. Repealed
R20-4-707. Expired

Historical Note
Former Rule 6. R20-4-706 recodified from R4-4-706 (Supp. 95-1). Section repealed by final rulemaking at 7 A.A.R. 5385, effective November 9, 2001 (Supp. 01-4).

R20-4-708. Financial Condition and Resources
The Superintendent shall consider the following criteria in evaluating an escrow agent’s, other escrow agent’s, or applicant’s financial condition and resources under A.R.S. § 6-817:
1. Amount of positive net worth,
2. Amount of tangible net worth,
3. Amount of liquid assets,
4. Amount of cash provided by operations,
5. Ratio of debt to net worth,
6. Owner’s personal financial resources,
7. Outside resources available,
8. Profitability,
9. Projected operating results,
10. Status as agent for a title insurance company, and
11. Sources of new business.

Historical Note
New Section made by final rulemaking at 7 A.A.R. 5385, effective November 9, 2001 (Supp. 01-4).

ARTICLE 8. TRUST COMPANIES

R20-4-801. Definitions
In this Article, unless the context otherwise requires:
“Account” means the trust, estate, or other fiduciary relationship established with a trust department or trust company.
“Affiliate” has the meaning stated at A.R.S. § 6-801.
“Certificate” has the meaning stated at A.R.S. § 6-851.
“Fiduciary” has the meaning stated at A.R.S. § 6-851.

“Governing instrument” means a document, and all its operative amendments, that:
   Creates a trust and regulates the trustee’s conduct,
   Creates an agency relationship between a trust department or trust company and a client, or
   Otherwise evidences a fiduciary relationship between a trust department or trust company and a client.

“Investment responsibility” means full and unrestricted discretion to invest trust funds without direction from anyone as to any matter, including the terms of the trade or the identity of the broker.

“Person” has the meaning stated at A.R.S. § 1-215.

“Superintendent” has the meaning stated at A.R.S. § 6-851.

“Trust asset” means any property or property right held by a trust department or trust company for the benefit of another.

“Trust business” has the meaning stated at A.R.S. § 6-851.

“Trust company” has the meaning stated at A.R.S. § 6-851.

“Trust department” means a permittee under both A.R.S. § 6-201 et seq. and Article 2 of this Chapter that possesses a banking permit authorizing it to engage in trust business.

“Trust funds” means any money held by a trust department or trust company for the benefit of another.

“Trustor” means a person who creates or funds a trust, or both.

Historical Note
Adopted effective June 30, 1977 (Supp. 77-3). R20-4-801 recodified from R4-4-801 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2718, effective June 6, 2002 (Supp. 02-2).

R20-4-802. Reserved

R20-4-803. Reserved

R20-4-804. Repealed

Historical Note
Adopted effective June 30, 1977 (Supp. 77-3). R20-4-804 recodified from R4-4-804 (Supp. 95-1). Repealed by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2).

R20-4-805. Reports

A. Within 90 days following each December 31, each trust department and trust company shall file an annual report of trust assets with the Superintendent on the form prescribed by the Superintendent. The annual report shall include the current market value of all trust assets held by the trust department or trust company as of December 31. The report shall also identify and briefly describe all transactions conducted in the report period that are regulated by R20-4-812(E) through R20-4-812(G).

B. Each trust company shall deliver a copy of its annual report and certificate of disclosure to the Superintendent within 10 days of filing the report and certificate at the Arizona Corporation Commission. A report or certificate covered by this subsection is one filed under the authority of A.R.S. §§ 10-202 or 10-1622. A copy delivered to the Superintendent, as required in this subsection, shall be date-stamped by the Arizona Corporation Commission to confirm the actual filing date.

C. Each trust company shall notify the Superintendent of any change in the directors or officers of the company within 10 days of the change. Any trust company with more than 25 officers may, after obtaining the Superintendent’s written approval, limit the officers covered by this subsection to those with substantial involvement in the trust company’s corporate operations or in the trust company’s trust business in this state.

Historical Note
Adopted effective September 1, 1977 (Supp. 77-3). R20-4-805 recodified from R4-4-805 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2718, effective June 6, 2002 (Supp. 02-2).

R20-4-806. Records

A. A trust company may use a computer recordkeeping system if the trust company gives the Superintendent advanced written notice that it intends to do so. Except for records required by subsections (B)(1)(a) and (B)(1)(b), the Department shall not require a trust company to keep a written copy of its records if the trust company can generate all information required by this section in a timely manner for examination or other purposes. A trust company may add, delete, modify, or customize a computer recordkeeping system’s hardware or software components. When requested, or in response to a written notice of an examination, a trust company shall report to the Superintendent any alteration in the computer recordkeeping system’s fundamental character, medium, or function if the alteration changes the computer system to a paper-based system.

B. A trust department or trust company shall keep books, accounts, and records adequate to provide clear and readily understandable evidence of all business conducted by the trust department or trust company, including the following:
   1. A file for each account that includes:
      a. The original of the governing instrument,
      b. The originals of all contracts and other legal documents,
      c. Copies of all correspondence,
      d. Accounting records disclosing all the financial transactions, and
      e. A listing of all the account’s assets and liabilities.
   2. An investment file for each account that includes:
      a. All original documentary evidence of the account’s assets; or
      b. Copies of the original documentary evidence of the account’s assets, together with written evidence of custody or receipt of the originals by an authorized holder; and
      c. A record of the initial and annual investment reviews for the account.
   3. The corporate general ledger kept current on a daily basis. This record shall identify and segregate all financial transactions conducted by the trust department or trust company for itself, distinguishing them from those relating to the trust department’s or trust company’s trust business;
   4. Unaudited financial statements. A trust department or trust company shall produce these statements quarterly or more frequently when directed by the Superintendent. The financial statements shall include at least:
      a. A balance sheet; and
      b. A statement of income, expenses, and retained earnings.
   5. Adequate records of all pending litigation that names the trust department or trust company as a party.

C. A trust department shall keep its fiduciary records separate and distinct from the trust department’s corporate records.
D. A trust department or trust company shall keep records described in subsections (B)(1) and (B)(2) for at least three years after closing an account. If litigation occurs concerning a particular account, the trust department or trust company shall keep that account’s records, described in subsections (B)(1) and (B)(2), for three years after the litigation is resolved.

**Historical Note**
Adopted effective September 1, 1977 (Supp. 77-3). R20-4-806 recodified from R4-4-806 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2718, effective June 6, 2002 (Supp. 02-2).

R20-4-807. Unsafe or Unsound Condition
For purposes of A.R.S. §§ 6-863 and 6-865, a trust company conducts business in an unsafe manner or its affairs are in an unsound condition if it:
1. Violates any fiduciary duty or obligation, including those listed in R20-4-809 through R20-4-815; and
2. Is insolvent; or
3. Engages in any conduct that the Superintendent determines constitutes an unsafe or unsound business practice jeopardizing the trust company’s financial condition or the interests of a stockholder, creditor, trustor, beneficiary, or trust company’s principal.

**Historical Note**
Adopted effective June 30, 1977 (Supp. 77-3). R20-4-807 recodified from R4-4-807 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2718, effective June 6, 2002 (Supp. 02-2).

R20-4-808. Administration of Fiduciary Powers

A. The board of directors and the officers share responsibility for the exercise of fiduciary powers by a trust department or trust company. The board of directors is responsible for determining policy; investing and disposing of trust assets; and directing and reviewing the actions of all directors, officers, and committees of the board that exercise fiduciary powers. The board of directors may delegate the necessary power and authority to perform the trust department’s or trust company’s duties as a fiduciary to selected directors, officers, employees, or committees of the board if the delegation is consistent with the corporate charter. The minutes of the board’s meetings shall duly reflect all those delegations.

B. A trust department or trust company shall not accept a new account without first obtaining the board’s approval, or that of the directors, officers, or committees that the board may have authorized to approve new accounts. The trust department or trust company shall keep a written record of each new account approval and of the closing of each account. The trust department or trust company shall conduct an asset review within 60 days after it accepts each new account if it has investment responsibility for that account. The trust department’s or trust company’s board shall ensure that an annual review of account assets is conducted for any account in which the trust department or trust company has investment responsibility, to determine whether to retain or dispose of the assets.

C. A trust department or trust company exercising fiduciary powers shall use independent legal counsel admitted to practice in Arizona to advise and inform the trust department or trust company on fiduciary matters and all other legal issues presented to the trust department or trust company by the conduct of its trust business.

**Historical Note**
Adopted effective June 30, 1977 (Supp. 77-3). R20-4-808 recodified from R4-4-808 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2718, effective June 6, 2002 (Supp. 02-2).

R20-4-809. Fiduciary Duties
A trust department or trust company shall perform all fiduciary duties imposed upon it by law, including the following:
1. Administer accounts strictly according to the governing instrument and solely in the account beneficiary’s interest;
2. Use reasonable care and skill to make the account productive;
3. Provide complete and accurate information of the nature and amount of assets held to each account’s beneficiary or principal and permit the beneficiary, principal, or any person duly authorized by the beneficiary or principal to inspect the account’s records at any time during normal business hours. The information provided in compliance with this subsection shall be delivered at least quarterly, unless:
   a. The trust department or trust company and its account’s beneficiary, principal, or authorized person agree otherwise in writing;
   b. The governing instrument provides otherwise; or
   c. A different frequency is established by a lawful course of dealing before the effective date of this rule; and
4. Comply with all lawful provisions of the governing instrument.

**Historical Note**
Adopted effective June 30, 1977 (Supp. 77-3). R20-4-809 recodified from R4-4-809 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2718, effective June 6, 2002 (Supp. 02-2).

R20-4-810. Funds Awaiting Investment or Distribution

A. Trust funds held by a trust department or trust company awaiting investment or distribution shall not remain uninvested or undistributed any longer than is reasonable for the account’s proper management.

B. A trust department or trust company may keep trust funds in deposit accounts maintained by the trust department or trust company, unless prohibited by law or by the governing instrument. The trust department or trust company shall set aside collateral security for all deposited trust funds under a third party’s control. The collateral shall be the following types of securities, in any combination:
1. Direct obligations of the United States or any agency, department, division, or administration of the federal government;
2. Any other obligations fully guaranteed by the United States government as to principal and interest;
3. Obligations of a Federal Reserve Bank;
4. Obligations of any state, political subdivision of a state, or public authority organized under the laws of a state; or
5. Readily marketable securities that either:
a. Qualify as investment securities under the Investment Securities regulations of the Comptroller of the Currency, 12 CFR, Chapter 1, Part 1; or
b. Satisfy state pledging requirements under A.R.S. § 6-245(C).

C. The securities set aside under subsection (B) shall, at all times, have a market value no less than the amount of trust funds deposited. No collateral security is required to the extent the Federal Deposit Insurance Corporation, or its successor, insures the deposited trust funds.

**Historical Note**
Adopted effective June 30, 1977 (Supp. 77-3). R20-4-810 recodified from R4-4-810 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2718, effective June 6, 2002 (Supp. 02-2).

**R20-4-811. Investment of Trust Funds**
A. A trust department or trust company shall invest trust funds according to:
   1. The governing instrument; and
   2. All applicable laws, including A.R.S. §§ 6-862, 14-7402, and 14-7601 through 14-7611.

B. A trust department or trust company shall make any collective investment of trust funds exclusively under the terms of R20-4-815.

**Historical Note**
Adopted effective June 30, 1977 (Supp. 77-3). R20-4-811 recodified from R4-4-811 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2718, effective June 6, 2002 (Supp. 02-2).

**R20-4-812. Self-dealing**
A. A trust department or trust company shall not invest trust funds in the following types of property unless expressly authorized by the governing instrument, applicable state or federal law, or court order:
   1. Its own securities;
   2. Other types of property acquired from the trust department or trust company;
   3. Property acquired from the trust department’s or trust company’s directors, officers, or employees;
   4. Property acquired from the trust department’s or trust company’s affiliates;
   5. Property acquired from its affiliates’ directors, officers, or employees; or
   6. Property acquired from other individuals or organizations with an interest in the trust department or trust company if that interest might affect the trust department’s or trust company’s exercise of discretion to the detriment of its trust clients.

B. A trust department or trust company may use trust funds to purchase its own securities, or its affiliates’ securities:
   1. If the trust department or trust company has authority under subsection (A), and
   2. If those securities are offered pro rata to all stockholders of the trust department or trust company.

C. A trust department or trust company shall not sell or loan trust property to itself, or to the following types of persons, unless expressly authorized by the governing instrument, applicable state or federal law, or court order:
   1. Its directors, officers, or employees;
   2. Its affiliates;
   3. Its affiliates’ directors, officers, or employees; or
   4. Other individuals or organizations with an interest in the trust department or trust company if that interest might affect the trust department’s or trust company’s exercise of discretion to the detriment of its trust clients.

D. However, a trust department or trust company may sell or loan trust property to persons prohibited by subsection (C) if either:
   1. Its counsel has advised in writing that, by holding certain property, the trust department or trust company has incurred a contingent or potential liability for breach of fiduciary duty; and
   a. The proposed sale or loan avoids the contingent or potential liability;
   b. Its board of directors authorizes the sale or loan by an action duly noted in the trust department’s or trust company’s minutes;
   c. Its board of directors’ action expressly authorizes reimbursement to the affected account; and
   d. The affected account is reimbursed, in cash, at no loss to that account; or
   2. The Superintendent requires or approves, in writing, the sale or loan to otherwise prohibited parties.

E. A trust department or trust company may sell trust property held in one account to another of its accounts if:
   1. The transaction is fair to both accounts; and
   2. The transaction is not prohibited by the governing instruments, applicable state or federal law, or court order.

F. A trust department or trust company may loan trust property held in one account to another of its accounts if:
   1. The transaction is fair to both accounts; and
   2. The transaction is not prohibited by the governing instruments, applicable state or federal law, or court order.

G. A trust department or trust company may make a loan to a trust account, taking trust assets of the borrowing account as security for repayment, if:
   1. The transaction is fair to the borrowing account; and
   2. The transaction is not prohibited by the governing instruments, applicable state or federal law, or court order.

**Historical Note**
Adopted effective June 30, 1977 (Supp. 77-3). R20-4-812 recodified from R4-4-812 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2718, effective June 6, 2002 (Supp. 02-2).

**R20-4-813. Custody of Investments**
A. A trust department or trust company shall keep each account’s investments separate from its own assets. It shall place each account’s investments, except as provided in R20-4-815:
   1. In the trust department or trust company’s own securities;
   2. In the trust department or trust company’s affiliates’ securities;
   3. In the trust department or trust company’s directors, officers, or employees;
   4. In other types of property acquired from the trust department or trust company’s affiliates;

**Historical Note**
Adopted effective June 30, 1977 (Supp. 77-3). R20-4-813 recodified from R4-4-813 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000.
Any trust department that wants to surrender its trust powers

Duties

R20-4-816. Termination of Trust or Fiduciary Powers and Duties

A. Any trust department that wants to surrender its trust powers shall file with the Superintendent a certified copy of the appropriate resolution of its board of directors or of the board’s unanimous written consent. If, after investigation, the Superintendent concludes that the trust department has no remaining fiduciary duties, the trust department that it no longer has authority to exercise trust powers.

B. Any trust company that wants to surrender its certificate of authority to conduct trust business and wind up its affairs shall file with the Superintendent a certified copy of the appropriate resolution of its board of directors or of the board’s unanimous written consent. Upon receipt of the resolution or consent, the Superintendent shall cancel the trust company’s certificate of authority, and the trust company shall not accept new trust accounts.

C. After winding up its affairs, any trust company that wants to surrender its rights and obligations as a fiduciary and remove itself from the Superintendent’s supervision shall file with the Superintendent a certified copy of the appropriate resolution of its board of directors or of the board’s unanimous written consent. If, after investigation, the Superintendent concludes that the trust company has no further fiduciary duties, the Superintendent shall notify the trust company that it no longer has authority to exercise fiduciary powers.

D. Any trust department or trust company that surrenders its powers, rights, obligations, or certificate under this Section or that has them cancelled, suspended, or revoked shall continue to be regulated under A.R.S. § 6-864 and this Article until it winds up its affairs. No action under this Section impairs any liability or cause of action, existing or incurred, against any trust department or trust company or its stockholders, directors, or officers.

Historical Note
Adopted effective June 30, 1977 (Supp. 77-3). R20-4-816 recodified from R4-4-814 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2718, effective June 6, 2002 (Supp. 02-2).

Appendix A. Repealed

Historical Note
Appendix A repealed by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2).

Appendix B. Repealed

Historical Note
Appendix B repealed by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2).

ARTICLE 9. MORTGAGE BROKERS

R20-4-901. Reserved

Historical Note
Adopted effective August 14, 1991 (Supp. 91-3). R20-4-901 recodified from R4-4-901 (Supp. 95-1). Section repealed by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-902. Reserved

Historical Note
Adopted effective August 14, 1991 (Supp. 91-3). R20-4-902 recodified from R4-4-902 (Supp. 95-1). Section repealed by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-903. Exemption for an Entity Regulated by an Agency of this State, Other States, or by the United States

A. The exemption under A.R.S. § 6-902 (A)(1) only applies to a person whose offers to make or negotiate a mortgage loan, as
defined in A.R.S. § 6-901, and all mortgage loans made or negotiated by the person are regulated directly by an agency of this state, any other state, or the United States.

B. The required regulation of the transactions listed in subsection (A) includes:

1. Rules governing a claimant’s accounting and recordkeeping practices;
2. The authority to examine a claimant’s books and records relating to its mortgage lending activities; and
3. The ability to place a claimant in a receivership or conservatorship with regard to the claimant’s mortgage lending activities.

Historical Note
Adopted effective August 14, 1991 (Supp. 91-3). R20-4-904 recodified from R4-4-904 (Supp. 95-1). Amended by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-904. Reserved

Historical Note
Adopted effective August 14, 1991 (Supp. 91-3). R20-4-904 recodified from R4-4-904 (Supp. 95-1). Section repealed by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-905. Repealed

Historical Note
Adopted effective August 14, 1991 (Supp. 91-3). R20-4-905 recodified from R4-4-905 (Supp. 95-1). Section repealed by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-906. Equivalent and Related Experience

A. An applicant may satisfy the three years’ experience requirement of A.R.S. § 6-903 by the types of lending-related experience listed in this subsection. The Department counts each month in the following types of work experience toward the three years required for a mortgage broker license, under A.R.S. § 6-903(B), or as a responsible individual, under A.R.S. § 6-903(E). The Department counts a fractional month of experience, at least 15 days long, as a full month. An applicant receives credit in only one area listed and for not more than three years’ actual experience. The remaining years of experience required to qualify for a license shall be obtained from types of work experiences listed in subsection (A).

1. Attorney without state bar certified real estate specialty...3:2
2. Paralegal with experience in real estate matters...3:2
3. Loan underwriter...3:2
4. Mortgage broker or mortgage banker from another state without license...3:2
5. Real estate broker with an Arizona license or license from a state with substantially equivalent licensing requirements...3:2
6. Escrow officer...3:2
7. Trust officer with a title company...3:2
8. Executive, supervisor, or policy maker involved in administering or operating a mortgage-related business...3:1.5
9. Title officer with a title company...3:1.5
10. Real estate broker, not qualified under subsection (B)(5)...3:1.5
11. Loan processor with responsibility primarily for loans secured by lien interests on real property...3:1.5
12. Lender’s branch manager with responsibility primarily for loans not secured by lien interests on real property...3:1.5
13. Real property salesperson with an Arizona license or a license from a state with substantially equivalent licensing requirements...3:1
14. Loan officer, with responsibility primarily for loans not secured by lien interests on real property...3:1

Historical Note
Adopted effective August 14, 1991 (Supp. 91-3). R20-4-906 recodified from R4-4-906 (Supp. 95-1). Amended by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-907. Course of Study

A. A course of study shall be satisfactorily completed if the applicant has:
1. Attended at least 24 hours of class, and
2. Received a passing grade on the final exam.

B. A course of study shall meet all the following requirements:
1. The following items shall be submitted by the school to the Superintendent on an annual basis:
   a. Course materials;
   b. Class content outlines on a session-by-session basis;
   and
c. Sample final exam.
2. The following subjects shall be taught:
   a. Mortgage, deed of trust, and security agreement law;
   b. Negotiable instrument law;
   c. Mortgage broker law;
   d. Escrow agent law;
   e. Recordkeeping requirements of R20-4-917;
   f. Federal Housing Administration, Veterans Administration, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation requirements;
   g. Ethics;
h. Principal and agent law;
R20-4-908. Reserved

Historical Note
Adopted effective August 14, 1991 (Supp. 91-3). R20-4-908 recodified from R4-4-908 (Supp. 95-1). Section repealed by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-909. Reserved

Historical Note
Adopted effective August 14, 1991 (Supp. 91-3). R20-4-909 recodified from R4-4-909 (Supp. 95-1). Section repealed by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-910. Reserved

Historical Note
Adopted effective August 14, 1991 (Supp. 91-3). R20-4-910 recodified from R4-4-910 (Supp. 95-1). Section repealed by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-911. Qualified Replacement Responsible Individual

If a licensee chooses an individual to serve as a replacement responsible individual and that individual has not satisfactorily completed the course of study required by A.R.S. § 6-903(B)(2) or passed the mortgage broker examination required by A.R.S. § 6-903(B)(3), and is not given the opportunity to do so prior to the expiration of the 90-day time period provided in A.R.S. § 6-903(F), but otherwise meets the requirements of A.R.S. § 6-903(B), the individual shall be qualified as a replacement responsible individual until the next course of study has been held and, if the person successfully completes the course of study, until the mortgage broker examination next following the completion of the course of study has been held and the results of the examination are available. If the individual fails to satisfactorily complete the course of study or fails the mortgage broker examination, the licensee shall then have a new 90-day time period within which to place itself under the active management of a qualified responsible individual. Notwithstanding the foregoing, a licensee shall have no longer than 180 days within which to place the license under the active management of a qualified responsible individual unless the Superintendent grants additional time to the licensee for good cause shown.

R20-4-912. Restrictions on the Term of a Cash Alternative

If an applicant or a licensee elects to place with the Superintendent a deposit in the form of a certificate of deposit or investment certificate, in addition to the requirements of A.R.S. § 6-903(J), the certificate of deposit or investment certificate shall not be renewable, nor expire, earlier than 12 months from the date of issuance.

R20-4-913. Reserved

Historical Note
Adopted effective August 14, 1991 (Supp. 91-3). R20-4-912 recodified from R4-4-912 (Supp. 95-1).

R20-4-914. Reserved

Historical Note
Adopted effective August 14, 1991 (Supp. 91-3). R20-4-914 recodified from R4-4-914 (Supp. 95-1). Section repealed by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-915. Requirements for a Person Intended to Oversee a Branch Office

A person designated to oversee the operations of a branch office shall be knowledgeable about the branch activities of the licensee, shall supervise compliance by the branch with applicable law and rules, and shall have sufficient authority to ensure such compliance. One person may oversee more than one branch.

Historical Note
Adopted effective August 14, 1991 (Supp. 91-3). R20-4-915 recodified from R4-4-915 (Supp. 95-1).

R20-4-916. Notification of Change of Address

If the address of the principal place of business or of any branch office is changed, the licensee shall notify the Superintendent of the change within five business days after the occurrence of the change of location. Together with such notice, the licensee shall provide to the Department the license for the office changing addresses together with the fee required by A.R.S. § 6-126 for changing the address of an office. A copy of such license shall continue to be displayed at the place of business until a new license is issued.

Historical Note
Adopted effective August 14, 1991 (Supp. 91-3). R20-4-916 recodified from R4-4-916 (Supp. 95-1).

R20-4-917. Recordkeeping Requirements

A. The Superintendent shall approve a licensee’s use of a computer or mechanical recordkeeping system if the licensee gives the Superintendent advanced written notice that it intends to do so. The Department shall not require a licensee to keep a written copy of the records if the licensee can generate all information required by this Section in a timely manner for examination or other purposes. A licensee may add, delete, modify, or customize an approved computer or mechanical recordkeeping system’s hardware or software components.

When requested, or in response to a written notice of an examination, a licensee shall report to the Superintendent any alteration in the approved system’s fundamental character, medium, or function if the alteration changes:
1. Any approved computer or mechanical system back to a paper-based system;
2. An approved mechanical system to a computer system; or
3. An approved computer system to a mechanical system.

B. In addition to any statutory requirement regarding records, a record maintained by a mortgage broker shall include the following:

1. A list of all executed loan applications or executed fee agreements that includes the following information:
   a. Applicant’s name;
   b. Application date;
   c. Amount of initial loan request;
   d. Final disposition date;
   e. Disposition (funded, denied, etc.); and
   f. Name of loan officer;
2. A record, such as a cash receipts journal, of all money received in connection with a mortgage loan including:
   a. Payor’s name;
   b. Date received;
   c. Amount; and
   d. Receipt’s purpose, including identification of a related loan, if any;
3. A sequential listing of checks written for each bank account relating to the mortgage broker business, such as a cash disbursement journal, including:
   a. Payee’s name;
   b. Amount;
   c. Date; and
d. Payment’s purpose, including identification of a related loan, if any;
4. Bank account activity source documents for the mortgage broker business including receipted deposit tickets, numbered receipts for cash, bank account statements, paid checks, and bank advices.
5. A trust subsidiary ledger for each borrower that deposits trust funds showing:
   a. Borrower’s name or co-borrowers’ names;
   b. Loan number, if any;
   c. Amount received;
d. Purpose for the amount received;
e. Date received;
f. Date deposited into trust account;
g. Amount disbursed;
h. Date disbursed;
i. Disbursement’s payee and purpose; andj. Balance;
6. A file for each application for a mortgage loan containing:
   a. The agreement with the customer concerning the broker’s services, whether as a loan application, fee agreement, or both;
   b. Document showing the application’s final disposition, such as a settlement statement, or a denial or withdrawal letter;
c. Correspondence sent, received, or both by the licensee;
d. Contract, agreement, and escrow instructions to or with any depository;
e. Documents showing compliance with the Consumer Credit Protection Act’s (15 U.S.C. §§ 1601 through 1666j) and the Real Estate Settlement Procedures Act’s (12 U.S.C. §§ 2601 through 2617) disclosure requirements, to the extent applicable;
f. If the loan is funded by an investor that is not a financial institution, an enterprise, a licensed real estate broker or salesman, a profit sharing or pension trust or, an insurance company, the documents provided to the investor under A.R.S. § 6-907, a copy of the executed note and executed deed of trust or mortgage, and any assignment by the broker to the investor;
g. If the loan is closed in the mortgage broker’s name, a copy of all closing documents including: closing instructions, any applicable rescission notice, HUD-1 settlement statement, final truth-in-lending disclosure, executed note, executed deed of trust or mortgage, and each assignment of beneficial interest by the licensee; and
h. Itemized list of all fees taken in advance including appraisal fee, credit report fee, and application fee;
7. Samples of every piece of advertising relating to the mortgage broker’s business in Arizona;
8. Copies of governmental or regulatory compliance reviews;
9. If the licensee is not a natural person, a file containing:
   a. Organizational documents for the entity;
   b. Minutes;
c. A record, such as a stock or ownership transfer ledger, showing ownership of all proportional equity interests in the licensee, ascertainable as of any given record date; and
d. Annual report, if required by law;
10. If the licensee or anyone directly or indirectly owning more than 20% of the licensee has a felony conviction, a copy of the judgment or other record of conviction;
11. If the licensee or anyone directly or indirectly owning more than 20% of the licensee has, in the previous seven years, been named a defendant in any civil suit, a copy of the complaint, any answer filed by the licensee, and any judgment, dismissal, or other final order disposing of the action; and
12. If the Superintendent has granted approval to maintain records outside this state, the specific address where the records are kept, and a person’s name to contact for them.

C. If 10 or fewer transactions have occurred during the prior calendar quarter, a licensee shall reconcile and update all records specified in subsection (B) at least once each calendar quarter. A licensee shall reconcile and update all records specified in subsection (B) monthly if more than 10 transactions occurred during the prior calendar quarter. In addition to reconciling each trust bank account, a licensee shall verify each trust balance to each trust subsidiary ledger at each reconciliation.

D. A licensee shall retain the documents described in subsections (B)(1) and (B)(6) for the length of time provided in A.R.S. § 6-906. For the purposes of A.R.S. § 6-906, a mortgage loan’s closing date, on a loan application that did not result in the making of a loan, is either:
1. The date a licensee receives a written cancellation notice from an applicant; or
2. The date a licensee mails written notice to an applicant that the application has been denied, as required by federal law.

E. A licensee shall maintain all records described in this Section, and not included in subsection (D), for at least two years.

Historical Note
Adopted effective August 14, 1991 (Supp. 91-3). R20-4-917 recodified from R4-4-917 (Supp. 95-1). Amended by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-918. Repealed
R20-4-919. Deposit of Monies Received by a Mortgage Broker

All monies received by a mortgage broker which are required to be deposited into an escrow account with an escrow agent licensed pursuant to A.R.S. § 6-801 et seq. shall be so deposited by 5:00 p.m. on the next business day after receipt of the funds.

R20-4-920. Requirements for the Testing Committee

A. No licensee shall submit more than five names as nominees to serve on the testing committee. The resumes of the nominees shall be included. The names and resumes shall be submitted to the Superintendent no later than August 1 of each even-numbered year. On or before September 30 of each even-numbered year, the Superintendent shall appoint four persons from the nominees submitted and one employee of the Department as members of the testing committee. A person may serve more than one two-year term. If the Superintendent does not find at least four persons from the list to be acceptable, the Superintendent shall solicit additional nominees from licensees.

B. In the event of a vacancy on the testing committee, the remaining members of the committee shall submit a list of nominees within 45 days of the vacancy to the Superintendent containing not less than two nominees for each vacancy. The Superintendent shall then appoint a nominee from the list to fill each vacancy for the remainder of the term. If the Superintendent does not find at least one person from the list to be acceptable to fill each vacancy, the remaining members of the committee shall, upon request, submit an additional list of nominees to the Superintendent.

C. The Superintendent may remove any member of the committee at any time without cause.

D. The committee shall review and revise questions on the test at least once every two years. All questions used on the test shall first be submitted to and approved by the Superintendent.

E. The committee shall inform the applicant of the applicant’s score on the test in writing within 30 days of administration of the test.

F. The handbook for mortgage brokers shall be updated by the committee as necessary to reflect changes in the law.

R20-4-921. Authorizations to Complete Blank Spaces

An authorization, under A.R.S. § 6-909, allowing a licensee or escrow agent to complete certain blank spaces in a document after it is signed by a party to the transaction shall:

1. Specifically identify the document and the blank spaces to be completed;
2. Be in writing, dated, and signed by the authorizing parties; and
3. Contain the following notice, conspicuously printed on its face: YOUR SIGNATURE BELOW authorizes your MORTGAGE BROKER OR ESCROW AGENT TO FILL IN SPACES YOU LEFT BLANK IN SPECI-
CHAPTER 4. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - FINANCIAL INSTITUTIONS

Historical Note

R20-4-927. Conversion to Commercial Mortgage Broker License
A. Under A.R.S. § 6-913, a mortgage broker licensee shall only be permitted to convert his or her license to a commercial mortgage broker license during the renewal period established by A.R.S. § 6-904.
B. The licensee seeking conversion shall not be subject to the 12 continuing education units as prescribed by A.R.S. § 6-903(V).
C. The licensee seeking conversion shall submit:
   1. The renewal fees required by A.R.S. § 6-126 for commercial mortgage brokers, and
   2. The information and documents required by A.R.S. § 6-903.

Historical Note
New Section adopted by final rulemaking at 18 A.A.R. 2622, effective December 2, 2012 (Supp. 12-4).

R20-4-928. Certificate of Exemption Application and Renewal
A. Under A.R.S. § 6-912(C), upon application for a certificate of exemption, an applicant shall pay a nonrefundable fee of $300.
B. A person holding a certificate of exemption shall pay a renewal fee of $150.00 on or before December 31 of each year.
C. In addition to the application fee, on issuance of a certificate of exemption, an applicant shall pay a nonrefundable fee of $300. Each licensed loan originator that is provided in A.R.S. § 6-912 for the issuance of an original certificate of exemption. Each licensed loan originator that is sponsored by a registered exempt person whose certificate has expired shall have his or her license placed on inactive status pursuant to A.R.S. § 6-991.02(M).
D. The following fees are payable to the Department:
   1. To change the name of the federally chartered savings bank on a certificate of exemption: $250.00.
   2. To change the responsible individual for the exempt entity: $250.00.
   3. To issue a duplicate or replace a lost certificate of exemption: $100.00.
   4. To change the address of the federally chartered savings bank on a certificate of exemption: $50.00.

Historical Note
New Section adopted by final rulemaking at 18 A.A.R. 2622, effective December 2, 2012 (Supp. 12-4).

ARTICLE 10. SAFE DEPOSIT AND SAFEKEEPING CODE

R20-4-1001. Notice of Change of Location of Safe Deposit Repository
A. A corporation or association that moves a repository shall give written notice of the location change to the Superintendent and to its customers.
   1. A corporation or association shall provide notice of the location change to the Superintendent by mailing the notice required under this subsection by first class mail no less than 30 days before the scheduled moving date.
   The corporation or association shall include a copy of the notice to customers required under subsection (B).
   2. A corporation or association shall provide notice of the location change to its customers by:
      a. Publishing notice of the change of location in:
         i. An English language newspaper of general circulation in the county where the repository will be closed,
         ii. In a weekly newspaper for two consecutive publications, or
         iii. In a daily newspaper for three consecutive days; and
      b. Publishing the notice no more than 90 days, and no less than 30 days, before the scheduled moving date.

B. The corporation or association shall include all the following information in the notice:
   1. The date the corporation or association intends to move the repository,
   2. The earliest date a customer can remove contents and transact other business related to the move,
   3. The latest date a customer can remove contents and transact other business related to the move,
   4. The street address of the repository to be closed, and
   5. The street address of the new repository.

Historical Note
Former Rule 1. R20-4-1001 recodified from R4-4-1001 (Supp. 95-1). Amended by final rulemaking at 8 A.A.R. 5227, effective February 4, 2003 (Supp. 02-4). Preceding Historical Note entry corrected to read 2003 instead of 2002 (Supp. 03-1).

ARTICLE 11. PUBLIC DEPOSITORIES FOR PUBLIC MONEY

R20-4-1101. Capital structure of banks; defined
“Capital structure” as the term is applied to banks under Article 2, Chapter 2, Title 35, Arizona Revised Statutes, means the sum of the following reserves and capital accounts of the institution as stated in the institution’s report of condition required by the supervisory banking authority for the year end next preceding the institution’s bid for deposit:
   1. Reserve for bad debt losses on loans.
   2. Other reserves on loans.
   3. Reserves on securities.
   4. Capital notes and debentures.
   5. Preferred stock -- total par value.
   6. Common stock -- total par value.
   7. Surplus.
   8. Undivided profits.
   9. Reserve for contingencies and other capital reserves.

Historical Note
Adopted as an emergency effective July 29, 1975 (Supp. 75-1). Amended effective December 26, 1975 (Supp. 75-2). R20-4-1101 recodified from R4-4-1101 (Supp. 95-1).

R20-4-1102. Expired
This Article governs procedures in all contested cases and appeal investigative proceedings before the Superintendent. A.R.S. §§ 41-1092 through 41-1092.12 or the Office of Administrative Department. The Department shall use the authority of A.R.S. §§ 41-1092 through 41-1092.12, and the Office of Administrative Hearings' procedural rules to govern the initiation and conduct of proceedings. In a case or action, special procedural requirements in state statute or another Section in this Chapter shall also govern the proceedings unless the requirements are inconsistent with either A.R.S. §§ 41-1092 through 41-1092.12 or the Office of Administrative Hearings' rules. This Article does not apply to rulemaking or to investigative proceedings before the Superintendent.

R20-4-1201. Scope of Article
This Article governs procedures in all contested cases and appealable agency actions, including administrative appeals, filed with the Department. The Department shall use the authority of A.R.S. §§ 41-1092 through 41-1092.12, and the Office of Administrative Hearings' procedural rules to govern the initiation and conduct of proceedings. In a case or action, special procedural requirements in state statute or another Section in this Chapter shall also govern the proceedings unless the requirements are inconsistent with either A.R.S. §§ 41-1092 through 41-1092.12 or the Office of Administrative Hearings' rules. This Article does not apply to rulemaking or to investigative proceedings before the Superintendent.

R20-4-1202. Definitions
In this Article, unless the context otherwise requires:

“Administrative law judge” has the meaning stated at A.R.S. § 41-1092(1).

“Appealable agency action” has the meaning stated at A.R.S. § 41-1092.3.

“Contested case” has the meaning stated at A.R.S. § 41-1001(4).

“Department” means the Arizona State Department of Financial Institutions.

“License” has the meaning stated at A.R.S. § 41-1001(10).

“Party” means:
The Department;
The Superintendent;
Each person either named or admitted as a party, and
Each person properly seeking, and entitled, to be a party.

“Superintendent” has the meaning stated in A.R.S. § 6-101(16).

R20-4-1203. Repealed
Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1202 recodified from R4-4-1202 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3).

R20-4-1204. Filing; Service
A. A person shall either personally deliver all papers permitted or required to be filed with the Superintendent or shall mail them by first class, certified, or express mail, or send them by facsimile transmission (602-381-1225), to the Superintendent at 2910 N. 44th Street, Suite 310, Phoenix, AZ 85018-7270, or shall serve them by any method permitted under R2-19-108. The Department considers papers filed when actually received at the Superintendent’s address stated in this subsection.

B. A party in a contested case or appeal from an agency action shall make any required or permitted service in the manner permitted under R2-19-108. A party shall make service upon each represented party’s attorney unless the administrative law judge orders separate service on the actual party. A party shall make service upon each unrepresented party by service on the actual party.

R20-4-1205. Repealed
Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1204 recodified from R4-4-1204 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3). Amended to correct a typographical error in subsection (B) (Supp. 01-4).

R20-4-1206. Repealed
Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1206 recodified from R4-4-1206 (Supp. 95-1). Section repealed by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3).

R20-4-1207. Repealed
Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1207 recodified from R4-4-1207 (Supp. 95-1). Section repealed by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3).

R20-4-1208. Commencement of Proceedings; Notice of Hearing
A person may obtain a hearing under A.R.S. § 41-1092.03 (B) on any appealable agency action or contested case, including the following, unless otherwise provided by law.

1. A letter or order granting or denying a license;
2. A license issued with restrictions or conditions;
3. A cease and desist order;
4. An order to remedy unsafe or unsound conditions;
5. An order to remedy an impairment of capital;
6. An order taking possession and control of a financial institution or enterprise;
7. An order assessing a fine;
8. Any other order or matter reviewable in a hearing either under the authority of these rules, a statute or an administrative rule enforced by the Superintendent, or by the order’s express terms.

R20-4-1209. Answer to Notice of Hearing
A. The Superintendent may, in a notice of hearing, direct one or more parties to file an answer to the assertions in the notice of
hearing. Any party to the proceeding may file an answer without being directed to do so.

B. A party directed to file an answer shall do so within 20 days after issuance of a notice of hearing, unless the notice of hearing states a different period for the answer. The Superintendent may require any party to answer, in a reasonable time, amendments to the assertions in the notice made after service of the original notice.

C. An answer filed under this Section shall briefly state the party’s position or defense to the proceeding and shall specifically admit or deny each of the assertions in the notice of hearing. An answering party that does not have, or cannot easily obtain, knowledge or information sufficient to admit or deny an assertion shall state that inability in its answer. That statement shall have the effect of a denial. A party admits each assertion that it does not deny. An answering party that intends to deny only a part or a qualification of an assertion, or to qualify an assertion, shall expressly admit as much of that assertion as is true and shall deny the remainder.

D. A party that fails to file an answer required by this Section within the time allowed is in default. The Superintendent may resolve the proceeding against a defaulting party. In doing so, the Superintendent may regard any assertions in the notice of hearing as admitted by the defaulting party.

E. An answering party waives all defenses not raised in its answer.

R20-4-1210. Stays
A person aggrieved by the Department’s action or order who files a timely written request for a hearing may ask, in the request for a hearing, that the Superintendent stay an action or any part of an order that will become effective before the Department can hold a hearing. The Superintendent may, in the Superintendent’s discretion, stay the legal effectiveness of any action or order until the matter can be heard and finally decided if the aggrieved person’s request demonstrates that:
1. The person has a reasonable defense that might prevail on the merits at the hearing,
2. The person will suffer irreparable injury unless the Superintendent grants the stay,
3. The stay would not substantially or irreparably harm other interested persons, and
4. The stay would not jeopardize the public interest or contravene public policy.

R20-4-1211. Intervention
A person may only intervene in a proceeding if the person timely applies and:
1. A statute confers a right to intervene, or
2. The person’s claim or defense shares a question of law or fact in common with the main proceeding.

R20-4-1212. Repealed

R20-4-1213. Repealed

R20-4-1214. Repealed

R20-4-1215. Repealed

R20-4-1216. Repealed

R20-4-1217. Repealed

R20-4-1218. Repealed

R20-4-1219. Rehearing
A. Except as provided in subsection (H), any party in a contested case who is aggrieved by a decision rendered in that case may file with the Superintendent, within time limits and other procedural guidelines contained in A.R.S. § 41-1092.09, a written motion for rehearing or review of the decision specifying the particular reason for rehearing.

B. A party requesting rehearing under this Section may amend a motion for rehearing at any time before the Superintendent rules on the motion. Any other party, or the Attorney General, may file a response to the motion for rehearing within 15 days after service of the motion for rehearing, or the amended motion for rehearing. The Superintendent may require a writ-
ten brief of the issues raised in the motion and may allow oral argument.

C. The Superintendent may grant a motion for rehearing for any of the following causes:
1. Irregularity in the proceedings before the Superintendent, in any order, or any abuse of discretion that deprives the moving party of a fair hearing;
2. Misconduct of the Superintendent, the Superintendent’s employees, the administrative law judge, or the prevailing party;
3. Accident or surprise that could not have been prevented by ordinary care;
4. Newly discovered material evidence that could not reasonably have been discovered and produced at the original hearing;
5. Excessive or insufficient penalties;
6. Error in admitting or rejecting evidence or other legal errors occurring at the hearing;
7. The decision is not justified by the evidence or is contrary to law.

D. The Superintendent may affirm or modify the decision or grant a rehearing as to all or any of the parties and on all or part of the issues for any reason listed in subsection (C). An order granting a rehearing shall specify the reason for granting the rehearing, and the rehearing shall cover only those matters specified.

E. The Superintendent, within the time for filing a motion for rehearing, may without a motion order a rehearing or review of a decision for any reason that would allow the granting of a motion for rehearing by a party. The order for rehearing, granted without a motion, shall specify the reason for granting the rehearing.

F. After giving the parties notice and an opportunity to be heard on the matter, the Superintendent may grant a motion for rehearing, timely served, for a reason not stated in the motion. The order for rehearing, granted for a reason not stated in the motion, shall specify the reason for granting the rehearing.

G. When a motion for rehearing is based on an affidavit, the moving party shall serve the affidavit with the motion. An opposing party or the Attorney General may serve opposing affidavits within 10 days after service of the motion for rehearing.

H. The Superintendent may issue a final decision, subject only to judicial review, and without an opportunity for rehearing or administrative review if the Superintendent includes in the decision:
1. An express finding that the decision needs to be made immediately effective to preserve the public peace, health, and safety; and
2. An express finding that a rehearing or review is:
   a. Impossibly, or
   b. Unnecessary, or
   c. Contrary to the public interest.

Historical Note
Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1219 recodified from R4-4-1219 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3).

R20-4-1220. Consent Agreements

A. The Department will enter into a consent agreement, either in litigation or in an administrative proceeding, only if the defendant or respondent admits to the allegations in the complaint, notice, or order relating to the jurisdiction of the Superintendent or the jurisdiction of the tribunal that will enter the judgment or order.

B. A refusal to admit allegations is a denial. However, a defendant or respondent may consent to a judgment or order reciting that it does not admit or deny the allegations except those required by subsection (A). A consent agreement shall contain those additional provisions required by the Superintendent in a given matter, and may include:
1. Waiving any right to seek judicial review challenging the judgment’s or order’s validity,
2. Waiving findings of fact and conclusions of law,
3. Stating that the agreement is signed only to settle the matter and not as an admission that the defendant or respondent has violated the law.

C. The Superintendent has sole discretion to decide whether to resolve a matter by consent agreement. Nothing in this Section gives the Superintendent a duty to approve a consent agreement in any matter.

Historical Note
Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1220 recodified from R4-4-1220 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3).

ARTICLE 13. LOAN ORIGINATORS

R20-4-1301. Scope of Article
This Article applies to:
1. All loan originating activities of any person licensed under Arizona law as a loan originator, and
2. The conduct of any applicant for a loan originator license.

Historical Note
New Section made by emergency rulemaking at 16 A.A.R. 839, effective April 27, 2010 for 180 days (Supp. 10-2). Section renewed by emergency rulemaking and amended at 16 A.A.R. 2165, effective October 24, 2010 for 180 days (Supp. 10-4). Emergency expired April 21, 2011; new Section made by final rulemaking at 16 A.A.R. 2401, effective April 22, 2011 (Supp. 10-4). Since emergency expired, the emergency rulemaking has been removed. (Supp. 15-1).

R20-4-1302. Course of Study to Qualify for Licensure
A. The Superintendent shall, under the authority of A.R.S. § 6-991.03(B)(1), approve a course of study that includes only those courses reviewed and approved by the Nationwide Mortgage Licensing System pursuant to A.R.S. § 6-991.03(E) and (F) and the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (P.L. 110-289; 122 Stat. 2810; 12 U.S.C. 5101 through 5116).

B. An applicant for a loan originator license shall satisfactorily complete a course of study by:
1. Attending at least 20 hours of instruction, and
2. Receiving a passing grade of not less than 75 percent correct answers on both the national and Arizona state exam required by A.R.S. § 6-991.07 and the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (P.L. 110-289; 122 Stat. 2810; 12 U.S.C. 5101 through 5116).

C. A pre-licensure course of study shall include 20 hours of instruction in the following areas:
1. Federal law and regulation, including the Real Estate Settlement Procedures Act ("RESPA"), the Truth in Lending Act ("TILA"), good faith estimates, federal privacy laws, fair lending laws including the Equal Credit Opportunity Act ("ECOA") and the Fair Credit Reporting Act ("FCRA"): Three hours;
2. Business ethics, including fraud, consumer protection laws, and fair lending practices: Three hours;
3. Non-traditional mortgage product lending standards: Two hours;
4. Arizona real estate and mortgage lending law, including loan origination and processing, Arizona law relating to agency and the obligations between principal and agent, and state privacy laws: Four hours;
5. The remaining eight hours should be comprised of instruction in:
   a. The obligations between principal and agent;
   b. The statutory and regulatory laws governing loan originators;
   c. Arithmetical computations common to mortgage lending;
   d. Principles of real estate lending;
   e. The purpose and effect of mortgages, deeds of trust, and security agreements;
   f. The terms and conditions of conforming and non-conforming residential mortgages;
   g. Real estate appraisal; and
   h. The principles of appraisal independence.

D. A continuing education course of study shall include eight hours of instruction each year in the following areas:
1. Federal law and regulation, including the Real Estate Settlement Procedures Act (“RESPA”), the Truth in Lending Act (“TILA”), good faith estimates, federal privacy laws, fair lending laws including the Equal Credit Opportunity Act (“ECOA”) and the Fair Credit Reporting Act (“FCRA”): Three hours;
2. Business ethics, including fraud, consumer protection laws, and fair lending practices: Two hours;
3. Non-traditional mortgage product lending standards: Two hours;
4. Arizona real estate and mortgage lending law, including loan origination and processing, Arizona law relating to agency and the obligations between principal and agent, and state privacy laws: One hour.

Historical Note
New Section made by emergency rulemaking at 16 A.A.R. 839, effective April 27, 2010 for 180 days (Supp. 10-2). Section renewed by emergency rulemaking and amended at 16 A.A.R. 2165, effective October 24, 2010 for 180 days (Supp. 10-4). Emergency expired April 21, 2011; new Section made by final rulemaking at 16 A.A.R. 2401, effective April 22, 2011 (Supp. 10-4). Since emergency expired, the emergency rulemaking has been removed. (Supp. 15-1).

R20-4-1303. Financial Responsibility
An applicant for a loan originator license shall demonstrate financial responsibility, as required by A.R.S. § 6-991.03, by either:
1. Depositing with the Superintendent a bond as specified by A.R.S. § 6-991.03(B)(4) and paying to the Superintendent, for deposit into the Mortgage Recovery Fund, the sum of $100 at the time of filing an original or a renewal application pursuant to A.R.S. § 6-991.03(B)(6); or
2. Depositing with the Superintendent a bond as specified by A.R.S. § 6-991.03(B)(4) and depositing with the Superintendent a bond as specified by A.R.S. § 6-991.03(B)(6).

Historical Note
New Section made by emergency rulemaking at 16 A.A.R. 839, effective April 27, 2010 for 180 days (Supp. 10-2). Section renewed by emergency rulemaking and amended at 16 A.A.R. 2165, effective October 24, 2010 for 180 days (Supp. 10-4). Emergency expired April 21, 2011; new Section made by final rulemaking at 16 A.A.R. 2401, effective April 22, 2011 (Supp. 10-4). Since emergency expired, the emergency rulemaking has been removed. (Supp. 15-1).

R20-4-1401. Definitions
In this Article, unless the context otherwise requires:
1. “Examination” means reviewing an applicant’s or licensee’s operations, books, and records for any lawful purpose, including those listed in A.R.S. § 6-124(A).
2. “Investigation” means an inquiry, other than an examination, into the affairs of a licensed or unlicensed entity including a review of the entity’s operations, books, and records, conducted by the Superintendent for any lawful purpose, including those listed in A.R.S. § 6-124(A).
3. “Licensee” means a financial institution or enterprise.

Historical Note
Adopted effective February 7, 1978 (Supp. 78-1). Former Section R4-4-1401 repealed, new Section R4-4-1401 renumbered from R4-4-1402 and amended effective April 22, 2011 (Supp. 10-4). Since emergency expired, the emergency rulemaking has been removed. (Supp. 15-1).
R20-4-1402. Repealed

R20-4-1403. Subpoenas: Service; Amendment; Investigation or Examination not a Condition of the Superintendent’s Subpoena Power

The Superintendent may serve a subpoena either by personal delivery or by first class, certified, or express mail, or by facsimile transmission. A Department employee, or an attorney or agent of the Attorney General’s office, may accomplish service for the Superintendent. A Department employee, or an attorney or agent of the Attorney General’s office, may serve the amended subpoena as provided in this Section. Under A.R.S. §§ 6-123(3), 6-124(B), and 12-2212, the Superintendent may compel testimony or document production, by subpoena.

R20-4-1404. Repealed

R20-4-1405. Fingerprints; Background Information

A. In connection with an examination or investigation, the Superintendent may investigate the following persons’ background:

1. An applicant or a licensee, or a person whom the Superintendent reasonably believes may be violating any statute or rule administered by the Superintendent; and

2. An officer, director, agent, employee, partner, joint venturer, affiliate, or other person associated with a person described in subsection (A)(1), if the other person has or had any involvement in or control over the activities of the person described in subsection (A)(1).

B. In connection with an examination or investigation, the Superintendent may require a person described in A.R.S. § 6-123.01(A) or (E) to submit a statement of personal history and fingerprints to the Department.

R20-4-1406. Repealed
CHAPTER 4. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - FINANCIAL INSTITUTIONS

Historical Note
Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). R20-4-1501 recodified from R4-4-1501 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2).

R20-4-1502. Applications
A. An applicant for a license shall complete and file an application, as required by the Department, by delivering the application to the Superintendent, together with the following documents and payment:
   1. The bond required by A.R.S. § 32-1021;
   2. The nonrefundable investigation fee and original license fee required by A.R.S. § 32-1028 and stated in A.R.S. § 6-126;
   3. A current financial statement in the form required by the Department;
   4. A certified copy of the current articles of incorporation, by-laws, partnership agreement, or other organizational documents under which the applicant proposes to conduct business; and
   5. A statement of personal history for each principal officer, partner, and manager of the applicant, in the form required by the Department.
B. An out-of-state collection agency applying for a license under A.R.S. § 32-1024 shall complete and file the application required by subsection (A), together with a signed statement declaring that:
   1. The requirements for securing the out-of-state license were, when issued, substantially the same or equivalent to the requirements imposed under A.R.S. Title 32, Chapter 9, Article 2. The statement shall also contain a complete description of those requirements.
   2. The state issuing the out-of-state license extends reciprocity to Arizona licensees under similar circumstances. The statement shall also contain a complete description of the conditions for reciprocity in the other state.
C. A licensee applying for license renewal shall complete and file an application, as required by the Department, by delivering the renewal application to the Superintendent before January 1, together with the renewal fee required by A.R.S. § 32-1028 and stated in A.R.S. § 6-126. An application for renewal shall also include a current financial statement in the form required by the Department.
D. An applicant for a provisional license under A.R.S. § 32-1027 shall complete and file an application as required by the Department, by delivering the application to the Superintendent within 30 days of the event justifying a provisional license. The applicant shall deliver the application together with each of the following:
   1. A bond that satisfies the requirements of A.R.S. § 32-1022;
   2. A current financial statement as required by the Department;
   3. A detailed description of the facts justifying the issuance of a provisional license; and
   4. Evidence that the licensee notified the Superintendent as required by A.R.S. § 32-1023, in the event the licensee has terminated its active manager.
E. An applicant for a provisional license shall, in each instance, be appropriate to the circumstances justifying the provisional license, as follows:
   1. A licensee’s personal representative, or the personal representative’s appointee, shall complete and file an application if the licensee, a natural person, has died;
   2. The surviving partners shall complete and file an application if the licensee, a partnership, has dissolved;
   3. A licensee shall complete and file an application if an active manager’s employment was terminated.
F. An applicant for a provisional license shall clearly label the top of the first page with the heading “APPLICATION FOR PROVISIONAL LICENSE UNDER A.R.S. § 32-1027.”
G. The Superintendent may require additional information the Superintendent considers necessary in connection with any application under this rule.

Historical Note
Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). R20-4-1502 recodified from R4-4-1501 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 4742, effective November 13, 2000 (Supp. 00-4).

R20-4-1503. Reports
A. A collection agency shall notify the Superintendent in writing of any change in the officers, directors, partners, or active manager of the collection agency not more than ten days after the change. With the notice, the collection agency shall provide the Superintendent with a Statement of Personal History for each new officer, director, partner, or active manager on a form obtained from the Department.
B. A collection agency shall notify the Superintendent in writing of any change in its place of business not more than 10 days after the change.

Historical Note
Adopted effective December 18, 1979 (Supp. 79-6). R20-4-1503 recodified from R4-4-1503 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2).

R20-4-1504. Records
A. A licensee may use a computer recordkeeping system if the licensee gives the Superintendent advanced written notice that it intends to do so. The Department shall not require a licensee to keep a written copy of its books, accounts, and records if the licensee can generate all information required by this Section in a timely manner for examination or other purposes. A licensee may modify a computer recordkeeping system’s hardware or software components. When requested, or in response to a written notice of an examination, a licensee shall report to the Superintendent any modification that changes a computer system back to a paper-based recordkeeping system;
B. All licensees shall keep and maintain books, accounts, and records adequate to provide a clear and readily understandable record of all business conducted by the collection agency, including:
   1. Records or books of account listing all clients’ accounts in numerical order, or in alphabetical order according to the clients’ names. If a collection agency keeps books of accounting in numerical order, the collection agency shall alphabetically cross-index each client name with the corresponding account’s number. Each account shall reflect its true condition at each calendar month’s end, and shall include:
      a. The client’s name and address;
      b. Each debtor’s name worked for collection in that month;
      c. The amount, description, and date of each debit and each credit to the account; and
      d. The balance due to, or owing from, the client.
2. A licensee shall maintain all records required under this Section:
   a. The debtor’s name;
   b. The debt’s principal amount;
   c. The interest charged or collected;
   d. The amount, and a description of any other charges;
   e. The amount, and date, of each payment received or collected; and
   f. The current balance due on the debt.

3. An original of each written contract, between the licensee and a client, including any contract amendments.

4. A trust general ledger reflecting all deposits to and payments from a trust account. A licensee shall post transactions to its trust general ledger at least every five business days. A licensee shall bring its trust general ledger current within 24 hours when requested by the Superintendent.

5. The licensee’s trust account reconciliation, prepared at least once a month.

6. Books, records, and files maintained so that the Superintendent can easily conduct an unannounced spot check, as well as the examinations and investigations required by A.R.S. §§ 6-122 and 6-124.

7. A copy of all pleadings in pending litigation that names the collection agency as a defendant.

8. A record of fictitious names used by the agency’s debt collectors as required by R20-4-1520.

C. A person issuing a receipt for a collection agency shall sign the receipt using that person’s true name. Each receipt shall also show the collection agency’s name.

D. A licensee shall maintain all records required under this Section and shall make them available for examination, investigation, or audit in Arizona within three working days after the Superintendent demands the records.

E. A licensee shall retain the records required by this Section for the following periods:
   1. A licensee shall retain all records described in subsections (B)(1), (B)(3), (B)(4), (B)(5), (B)(6), (B)(7), and (B)(8) for at least six years following their creation.
   2. A licensee shall retain all records described in subsection (B)(2) for at least three years from an account’s assignment to the licensee. If a licensee collects any money on an account, the licensee shall retain the records described in subsection (B)(2) for at least three years from the last collection date.

Historical Note
Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). Amended effective December 18, 1979 (Supp. 79-6). R20-4-1504 recodified from R4-4-1504 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 4742, effective November 13, 2000 (Supp. 00-4).

R20-4-1505. Trust Account

A. A licensee that maintains an office in Arizona shall deposit all funds collected for a client in a trust account with an Arizona bank or savings and loan association. A licensee that does not maintain an office in Arizona shall deposit all funds collected for a client in a trust account at a depository in the state where the licensee maintains its principal office. A licensee shall deposit all client funds before the close of its business on the third business day after the licensee receives the funds. Client funds shall remain on deposit as required by this Section until:
   1. Paid over to a client, or
   2. Otherwise paid as provided in this Section.

B. A licensee shall pay funds from the trust account either:
   1. By prenumbered printed checks, or
   2. By electronic payment.

C. A licensee shall deposit in its trust account only the funds it has collected for its client. A licensee, its officers, directors, partners, managers, members, or employees shall not commingle, or permit the commingling of, their own funds with client funds. This prohibition includes any funds that a licensee, or any officer, director, partner, manager, member, or employee claims an interest in if that interest arises outside the licensee’s contract with a client.

D. A licensee shall keep unpaid client funds in its trust account. A licensee may maintain a separate trust account for dormant accounts into which the licensee deposits unpaid funds such as those of a client that cannot be located, or any trust account check issued to a client that is returned without being negotiated. As to all those unpaid funds, under A.R.S. § 44-317, a licensee shall file an abandoned property report at the Arizona Department of Revenue as and when required by law.

E. A licensee shall withdraw from its trust account all fees and commissions due the licensee under its contract with a client and deposit them directly into its own operating account.

F. A licensee shall not pay funds from its trust account except as:
   1. Provided in this Section,
   2. Expressly authorized in its contract with a client, or
   3. Authorized in writing by the Superintendent.

Historical Note
Adopted effective December 18, 1979 (Supp. 79-6). R20-4-1505 recodified from R4-4-1505 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 4742, effective November 13, 2000 (Supp. 00-4).

R20-4-1506. Articles of Incorporation; Bylaws; Organizing Documents

A. A collection agency organized as a corporation shall file with the Superintendent a copy of each amendment to its articles of incorporation within 30 days after the amendment is adopted. Before filing with the Superintendent, an officer of the collection agency shall:
   1. Certify the copy filed in compliance with this Section, in writing, signed by the certifying officer, attesting to the completeness, accuracy, and authenticity of the certified copy; and
   2. Ensure the copy bears a stamp affixed by the Arizona Corporation Commission to evidence filing with the Commission.

B. A collection agency organized as a corporation shall file with the Superintendent a copy of each amendment to its bylaws within 10 days after the amendment is adopted. An officer of the collection agency shall certify the copy filed in compliance with this Section, in writing, attesting to the completeness, accuracy, and authenticity of the certified copy.

C. A collection agency not organized as a corporation shall file with the Superintendent a copy of each amendment to its organizing documents within 10 days after the amendment is adopted. A partner, active manager, or agent of the collection agency shall certify the copy filed in compliance with this Section, in writing, attesting to the completeness, accuracy, and authenticity of the certified copy.

Historical Note
Adopted effective December 18, 1979 (Supp. 79-6). R20-4-1506 recodified from R4-4-1506 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2).

R20-4-1507. Representations of Collection Agency’s Identity

...
In all communications with debtors, either orally or in writing, all the following rules apply:

A. A collection agency shall represent itself as a collection agency.
B. A collection agency shall not directly or indirectly claim to be a credit reporting agency or credit bureau if it is not.
C. A collection agency shall not directly or indirectly claim to be a law enforcement agency.
D. A collection agency shall not directly or indirectly claim to be a law firm.

**Historical Note**

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). R20-4-1507 recodified from R4-4-1507 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2).

R20-4-1508. Representations of the Law

A collection agency shall not:

A. Misrepresent the state of the law to a debtor,
B. Send a debtor written material that simulates legal process, or
C. Represent or imply that a debtor is, or may be, subject to criminal prosecution or arrest because of a failure to pay the debt.

**Historical Note**

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). R20-4-1508 recodified from R4-4-1508 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2).

R20-4-1509. Representations as to Fees, Costs, and Legal Proceedings; Disinterested Counsel Required

A. A collection agency shall neither threaten to collect, nor attempt to collect, an attorney’s fee, collection cost, or other fee that the debtor is not obligated to pay under the debtor’s contract with the collection agency’s creditor client.
B. A collection agency shall not inform a debtor that legal proceedings have been started unless, in fact, a lawsuit has been filed against the debtor.
C. A collection agency shall not threaten to start legal proceedings against a debtor unless the collection agency actually intends, at the time of the threat, to sue.
D. A collection agency shall not threaten to turn an account over to a lawyer unless the collection agency actually intends to do so at the time of the threat.
E. A collection agency shall not file a lawsuit against a debtor unless the lawsuit is filed by an attorney who has no personal or financial interest in that collection agency.

**Historical Note**

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). R20-4-1509 recodified from R4-4-1509 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2).

R20-4-1510. Representations as to Rights Waived or Remedies Available

A. A collection agency shall not inform a debtor that the debtor waives any legal right or legal defense by a failure to contact the collection agency.
B. A collection agency shall not inform a debtor that the collection agency has the power or right to bypass the legal process.
C. A collection agency shall not misrepresent the remedies available to the collection agency.

**Historical Note**

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). R20-4-1510 recodified from R4-4-1510 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2).

R20-4-1511. Prohibition of Harassment

A. A collection agency shall not use unauthorized or oppressive tactics designed to harass any person to pay a debt.
B. A collection agency shall not use written or oral communications that either ridicule, disgrace, or humiliate any person or tend to ridicule, disgrace, or humiliate any person.
C. A collection agency shall not state, imply, or tend to imply, in written or oral communications that any person is guilty of fraud or any other crime.
D. A collection agency shall not permit its agents, employees, representatives, debt collectors, or officers to use obscene or abusive language in efforts to collect a debt.
E. A collection agency or its agents, employees, representatives or officers are subject to penalties listed in A.R.S. § 32-1056(B) for any violation of this Article, as well as other liabilities imposed under any other provision of law.

**Historical Note**

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). R20-4-1511 recodified from R4-4-1511 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2).

R20-4-1512. Contacts with Debtors and Others

A. A collection agency shall contact a debtor by telephone only during reasonable hours. A collection agency shall make a reasonable attempt to contact a debtor at the debtor’s residence. A collection agency may contact a debtor at the debtor’s place of employment if a reasonable attempt to contact the debtor at the debtor’s residence has failed.
B. A collection agency shall not contact a third party, including a debtor’s friend, relative, neighbor, or employer and:
   1. Inform the third party of the debt;
   2. Ask the third party to pressure the debtor into paying the debt, or;
   3. Ask the third party to pay the debt, unless the third party is legally obligated to pay the debt.
C. A collection agency shall not threaten to contact a third party listed in subsection (B) for any purpose listed in subsection (B).
D. Despite the other provisions of this Section, a collection agency may make lawful service on third parties, including employers, of a writ of garnishment or other writ in aid of execution after judgment has been entered against a debtor.

**Historical Note**

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). R20-4-1512 recodified from R4-4-1512 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2).

R20-4-1513. Cessation of Communication with the Debtor
A. A collection agency shall stop contacting a debtor, directly or indirectly, if the debtor tells the collection agency that the debtor is represented by a lawyer and wants the collection agency to communicate with the debtor through that lawyer. The collection agency may later contact the debtor if the collection agency contacts the lawyer named by the debtor and learns that the lawyer does not represent the debtor.

B. A collection agency shall stop contacting a debtor, directly or indirectly, if the debtor gives the collection agency written notice that the debtor:
   1. Refuses to pay the debt, or
   2. Wants the collection agency to stop all further communication with the debtor.

C. Despite the provisions of subsection (B), a collection agency may contact a debtor to inform the debtor that:
   1. The collection agency has stopped trying to collect the debt,
   2. The collection agency or the creditor may invoke specific remedies that are customarily used by the collection agency or the creditor.

D. The debtor’s written notice under subsection (B) is effective upon receipt by the collection agency if delivered by mail.

**Historical Note**
Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). R20-4-1513 recodified from R4-4-1513 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2).

R20-4-1514. Disclosure of Information to Debtor
A. Within five days after the initial communication with the debtor, or a collection agency shall obtain, and be able to inform the debtor of:
   1. The name of the creditor;
   2. The time and place of the creation of the debt;
   3. The merchandise, services, or other value provided in exchange for the debt; and
   4. The date when the account was turned over to the collection agency by the creditor.

B. A collection agency shall give the debtor access to any of the collection agency’s records that contain the information listed in subsection (A).

C. At the debtor’s request, the collection agency shall give the debtor, free of charge, a copy of any document from its records that contains the information listed in subsection (A).

**Historical Note**
Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). R20-4-1513 recodified from R4-4-1513 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2).

R20-4-1515. Aiding and Abetting
A collection agency shall not help or encourage, directly or indirectly, any other person to evade or violate any provision of:
   1. This Article, or
   2. A.R.S. Title 32, Chapter 9.

**Historical Note**
Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). R20-4-1515 recodified from R4-4-1515 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2).

R20-4-1516. Advertising
A collection agency shall not use any form of communication to state or imply that it is:
   1. Approved, bonded by, or affiliated with the state of Arizona;
   2. A state agency;
   3. The director of any state agency; or
   4. Authorized to practice law.

**Historical Note**
Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). R20-4-1516 recodified from R4-4-1516 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2).

R20-4-1517. Repeated

**Historical Note**
Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). R20-4-1517 recodified from R4-4-1517 (Supp. 95-1). Section repealed by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2).

R20-4-1518. Agreements with Clients
A collection agency’s records shall document each client’s account in writing. The records for an account shall include either a written agreement between the client creditor and the collection agency, or a written direction from the creditor to the collection agency concerning a specific debt placed for collection. The collection agency shall keep records that are specific, easily understood, and unambiguous. A provision of a written agreement or written direction that suggests the collection agency has authority to represent the client in court or to practice law in any other way is void and prohibited by this Section. The records for an account shall separately state:
   1. The names of the parties to the agreement or written direction,
   2. The terms or rate of compensation paid to the collection agency,
   3. The length of time the agreement or written direction is intended to be in effect, and
   4. Any conditions regarding collection of a particular debt.

**Historical Note**
Adopted effective December 18, 1979 (Supp. 79-6). R20-4-1518 recodified from R4-4-1518 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2).

R20-4-1519. Licensee Names and Control
A. The Department shall not issue a license with a name that is:
   1. Similar to, or that may be confused with, any federal, state, county, or municipal government function or agency;
   2. Descriptive of any business activity that the applicant does not actually conduct;
   3. The same as, or similar to, the name of any existing collection agency, or;
   4. Otherwise deceptive or misleading.

B. The Department may permit the use of a name otherwise prohibited under subsection (A)(3) based on its analysis of
whether the name includes geographic or other information that distinguishes it from the other collection agency.

C. A collection agency shall not use a collection agency license to do business under more than one name. Each collection agency shall apply for and obtain a separate license for each business name it intends to use in Arizona.

Historical Note
Adopted effective December 18, 1979 (Supp. 79-6). R20-4-1521 recodified from R4-4-1521 (Supp. 95-1).
Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2).

R20-4-1520. Representations of Collection Agency Employees’ Identity or Position

A. A collection agency shall not allow its debt collector, agent, representative, employee, or officer to:
1. Misrepresent the person’s true position with the collection agency,
2. Claim to be, or imply that the person is, an attorney unless the person is licensed to practice law, or
3. Claim to be, or imply that the person is, a public official, peace officer, or any other type of public employee, or
4. Claim to be, or imply that the person is, any other third party.

B. In any communication with a debtor, a person working for a collection agency shall indicate that the person is a debt collector.

C. A collection agency shall keep a record of all fictitious names used by its debt collectors during their employment. The collection agency shall record the information required by this subsection before permitting the use of a fictitious name. The collection agency shall file a copy of the record of fictitious names with the Department on July 1 and December 31 of each year. After filing the initial report, a collection agency shall identify all changes to the record on July 1 and December 31 of each year. The collection agency’s record of fictitious names shall include:
1. The true name of each debt collector that uses a fictitious name,
2. Each fictitious name used by the debt collector, together with the dates when the name is used, and
3. The residential street address and residential mailing address of each debt collector that uses a fictitious name.

Historical Note
Adopted effective December 18, 1979 (Supp. 79-6). R20-4-1520 recodified from R4-4-1520 (Supp. 95-1).
Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2).

R20-4-1521. Duty of Investigation

A collection agency shall give copies of its evidence of the debt to the debtor or the debtor’s attorney on request. After providing the evidence, but before continuing its collection efforts against the debtor, the collection agency shall investigate any claim by the debtor or the debtor’s attorney that:
1. The debtor has been misidentified,
2. The debt has been paid,
3. The debt has been discharged in bankruptcy, or
4. Based on any other reasonable claim, the debt is not owed.

Historical Note
Adopted effective December 18, 1979 (Supp. 79-6). R20-4-1521 recodified from R4-4-1521 (Supp. 95-1).
1. Article 4, shall file with the Superintendent copies of all application documents filed with federal regulatory agencies in connection with the planned acquisition of control.

B. As used in this subsection, “executive officer” includes the chairman of the board, president, each vice president, cashier, secretary, treasurer, and every other person who participates in major policymaking functions of the applicant. Under A.R.S. § 6-145(A), an applicant seeking approval to acquire control of a trust company or controlling person of a trust company, under A.R.S. Title 6, Chapter 1, Article 4 shall supply all information the Superintendent requires under this subsection. The Superintendent may require an applicant to supplement or amend its application based on issues raised by the initial submission. The initial application shall consist of the following items:

1. A copy of the signed purchase agreement,
2. The applicant’s audited financial statement,
3. A personal history statement, on a form supplied by the Department, for each executive officer and each director of the acquiring party,
4. Each executive officer’s and each director’s audited financial statement,
5. A fingerprint card for each executive officer and each director, and
6. A copy of each executive officer’s and each director’s driver’s license.

Historical Note
Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective January 12, 1979 (Supp. 79-1). R20-4-1602 recodified from R4-4-1602 (Supp. 95-1). Amended by final rulemaking at 9 A.A.R. 5055, effective January 3, 2004 (Supp. 03-4).

R20-4-1603. Repealed

Historical Note
Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective January 12, 1979 (Supp. 79-1). R20-4-1603 recodified from R4-4-1603 (Supp. 95-1). Section repealed by final rulemaking at 9 A.A.R. 5055, effective January 3, 2004 (Supp. 03-4).

R20-4-1604. Repealed

Historical Note
Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective January 12, 1979 (Supp. 79-1). R20-4-1604 recodified from R4-4-1604 (Supp. 95-1). Section repealed by final rulemaking at 9 A.A.R. 5055, effective January 3, 2004 (Supp. 03-4).

ARTICLE 17. ARIZONA INTERSTATE BANK AND SAVINGS AND LOAN ASSOCIATION ACT

R20-4-1701. Definitions
In this Article, unless the context otherwise requires:

“Acquire” has the meaning stated at A.R.S. § 6-321(1).

“Applicant” means an out-of-state financial institution that intends to acquire control of an in-state financial institution.

“Control” has the meaning stated at A.R.S. § 6-321(2).

“In-state financial institution” has the meaning stated at A.R.S. § 6-321(3).

“Out-of-state financial institution” has the meaning stated at A.R.S. § 6-321(6).

Historical Note
Adopted effective October 1, 1986 (Supp. 86-5). R20-4-1701 recodified from R4-4-1701 (Supp. 95-1). Amended by final rulemaking at 11 A.A.R. 2031, effective July 2, 2005 (Supp. 05-2).

R20-4-1702. Notice to the Superintendent of Intent to Acquire Control of an In-state Financial Institution; Surrender of an Acquired Financial Institution’s Charter

A. An applicant shall give written notice of an acquisition to the Superintendent in the form of a courtesy copy of its federal application. The acquiring entity shall ensure that the notice is delivered to the Superintendent not less than ten days before the effective date of the acquisition. No other application is required under the provisions of A.R.S. Title 6, Chapter 2, Article 7, the Arizona Interstate Bank and Savings and Loan Association Act. The Superintendent may impose conditions on an acquisition under the authority of A.R.S. §§ 6-324 and 6-328.

B. An acquired in-state financial institution shall surrender, by delivery to the Superintendent, all permits and certificates issued by the Superintendent within ten days after the effective date of the acquisition unless the acquired institution intends to continue operating, after the acquisition, as a stand alone subsidiary under the authority of its existing Arizona banking permit.

Historical Note
Adopted effective October 1, 1986 (Supp. 86-5). R20-4-1702 recodified from R4-4-1702 (Supp. 95-1). Amended by final rulemaking at 11 A.A.R. 2031, effective July 2, 2005 (Supp. 05-2).

R20-4-1703. Repealed

Historical Note
Adopted effective October 1, 1986 (Supp. 86-5). R20-4-1703 recodified from R4-4-1703 (Supp. 95-1). Section repealed by final rulemaking at 11 A.A.R. 2031, effective July 2, 2005 (Supp. 05-2).

R20-4-1704. Public Notice

A. An applicant shall transmit to the Superintendent copies of each notice and the publisher’s affidavit of publication required by the Federal Reserve Board, Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation, or other regulatory authority that has concurrent jurisdiction.

B. An applicant shall provide the Superintendent of Banks copies of any protests known to have been received by the Federal Reserve Board, Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation, or other regulatory authority that has concurrent jurisdiction.

Historical Note
Adopted effective October 1, 1986 (Supp. 86-5). R20-4-1704 recodified from R4-4-1704 (Supp. 95-1). Amended by final rulemaking at 11 A.A.R. 2031, effective July 2, 2005 (Supp. 05-2).

R20-4-1705. Repealed

Historical Note
Adopted effective October 1, 1986 (Supp. 86-5). R20-4-1705 recodified from R4-4-1705 (Supp. 95-1). Section repealed by final rulemaking at 11 A.A.R. 2031, effective July 2, 2005 (Supp. 05-2).

R20-4-1706. Repealed
R20-4-1801. Exemption for an Entity Regulated by an Agency of this State, Other States, or by the United States

A. The exemption under A.R.S. § 6-942(A)(1) only applies to a person whose offers to make or negotiate a "mortgage banking loan" or a "mortgage loan," as those terms are defined in A.R.S. § 6-941, and all mortgage banking loans and mortgage loans made or negotiated by the person are regulated directly by an agency of this state, any other state, or the United States.

B. The required regulation of the transactions listed in subsection (A) includes:
   1. Rules governing a claimant’s accounting and recordkeeping practices;
   2. The authority to examine a claimant’s books and records relating to its mortgage banking activities or mortgage lending activities, or both; and
   3. The ability to place a claimant in a receivership or conservatorship with regard to the claimant’s mortgage banking activities, mortgage lending activities, or both.

Historical Note

R20-4-1802. Equivalent and Related Experience

A. An applicant may satisfy the three years’ experience requirement of A.R.S. § 6-943 by the types of lending-related experience listed in this subsection. The Department counts each month in the following types of work experience toward the three years required either for a mortgage banker license, or as a responsible individual, both under A.R.S. § 6-943(C). The Department counts a fractional month of experience, at least 15 days long, as a full month.
   1. Mortgage banker with an Arizona license, responsible individual, or branch manager for a licensee;
   2. Mortgage broker with an Arizona license, responsible individual, or branch manager for a licensee;
   3. Loan officer with responsibility primarily for loans secured by lien interests on real property;
   4. Lender’s branch manager with responsibility primarily for loans secured by lien interests on real property;
   5. Mortgage banker with license from another state, or responsible individual for the mortgage banker;
   6. Mortgage broker with license from another state, or responsible individual for the mortgage broker;
   7. Attorney certified by any state as a real estate specialist.

B. An applicant with insufficient actual experience of the types listed in subsection (A) may satisfy the remainder of the three years’ experience requirement of A.R.S. § 6-943 by the types of related experience listed in this subsection. The Department counts each month in the following types of work experience according to the ratio listed below, of actual experience to equivalent experience, credited toward qualifying for a license or as a responsible individual, both under A.R.S. § 6-943(C). The Department counts a fractional month of experience, at least 15 days long, as a full month. An applicant receives credit in only one area listed and for not more than three years’ actual experience. The remaining years of experience required to qualify for a license shall be obtained from types of work experiences listed in subsection (A).
   1. Attorney without state bar
      certified real estate specialty...3:2
   2. Paralegal with experience in real estate matters...3:2
   3. Loan underwriter...3:2
   4. Mortgage banker or mortgage broker from another state without license...3:2
   5. Real estate broker with an Arizona license or license from a state with substantially equivalent licensing requirements...3:2
   6. Escrow officer...3:2
   7. Trust officer with a title company...3:2
   8. Executive, supervisor, or policy maker involved in administering or operating a mortgage-related business...3:1.5
   9. Title officer with a title company...3:1.5
   10. Real estate broker, not qualified under subsection (B)(5)...3:1.5
   11. Loan processor with responsibility primarily for loans secured by lien interests on real property...3:1.5
   12. Lender’s branch manager with responsibility primarily for loans not secured by lien interests on real property...3:1.5
   13. Real property salesperson...3:1
   14. Loan officer, with responsibility primarily for loans not secured by lien interests on real property...3:1

Historical Note

R20-4-1803. Restrictions on the Term of a Cash Alternative to a Surety Bond

A licensee or applicant shall not place a certificate of deposit or investment certificate as a cash alternative to a surety bond with the Superintendent that is renewable or expires earlier than 12 months from the date of issuance.

Historical Note

R20-4-1804. Requirements for a Person Intended to Oversee a Branch Office

A person designated to oversee the operations of a branch office shall be knowledgeable about the branch activities of the licensee, supervise compliance by the branch with applicable law and rules, and have sufficient authority to ensure such compliance. One person may oversee more than one branch.

Historical Note

R20-4-1805. Notification of Change of Address

If a licensee changes the licensee’s principal place of business, or the location of a branch office, the licensee shall notify the Superintendent at least five business days before the address change. With the notice, a licensee shall provide the Superintendent with the license for the office changing its address and the fee required by A.R.S. § 6-126 for changing an office address. A copy of the license shall continue to be displayed at the place of business until a new license is issued.
R20-4-1806. Recordkeeping Requirements

A. The Superintendent shall approve a licensee’s use of a computer or mechanical recordkeeping system if the licensee gives the Superintendent advanced written notice that it intends to do so. The Department shall not require a licensee to keep a written copy of the records if the licensee can generate all information required by this Section in a timely manner for examination or other purposes. A licensee may add, delete, modify, or customize an approved computer or mechanical recordkeeping system’s hardware or software components. When requested, or in response to a written notice of an examination, a licensee shall report to the Superintendent any alteration in the approved system’s fundamental character, medium, or function if the alteration changes:
1. Any approved computer or mechanical system back to a paper-based system; or
2. An approved mechanical system to a computer system; or
3. An approved computer system to a mechanical system.

B. In addition to any statutory requirement regarding records, a record maintained by a mortgage banker shall include the following:
1. A list of all executed loan applications or executed fee agreements that includes the following information:
   a. Applicant’s name;
   b. Application date;
   c. Amount of initial loan request;
   d. Final disposition date;
   e. Disposition (funded, denied); and
   f. Name of loan officer;
2. A record, such as a cash receipts journal, of all money received in connection with mortgage banking loans or mortgage loans including:
   a. Payor’s name;
   b. Date received;
   c. Amount; and
   d. Receipt’s purpose including identification of a related loan, if any;
3. A sequential listing of checks written for each bank account relating to the mortgage banker business, such as a cash disbursement journal, including:
   a. Payee’s name;
   b. Amount;
   c. Date; and
   d. Payment’s purpose including identification of a related loan, if any;
4. Bank account activity source documents for the mortgage banker business including receipted deposit tickets, numbered receipts for cash, bank account statements, paid checks, and bank advices;
5. A trust subsidiary ledger for each borrower that deposits trust funds showing:
   a. Borrower’s name or co-borrowers’ names;
   b. Loan number, if any;
   c. Amount received;
   d. Purpose for the amount received;
   e. Date received;
   f. Date deposited into trust account;
   g. Amount disbursed;
   h. Date disbursed;
   i. Disbursement’s payee and purpose; and
   j. Balance;
6. A file for each application for a mortgage banking loan or a mortgage loan containing:
   a. The agreement with the customer concerning the mortgage banker’s services, whether as a loan application, fee agreement, or both;
   b. Document showing the application’s final disposition, such as a settlement statement, or a denial or withdrawal letter;
   c. Correspondence sent, received, or both by the licensee;
   d. Contract, agreement and escrow instructions to or with any depository;
   e. Documents showing compliance with the Consumer Credit Protection Act’s (15 U.S.C. §§ 1601 through 1666j) and the Real Estate Settlement Procedures Act’s (12 U.S.C. §§ 2601 through 2617) disclosure requirements, to the extent applicable;
   f. If the loan is closed in the licensee’s name, and funded by a lender that is not an institutional investor as defined at A.R.S. § 6-943, a copy of the executed note, executed deed of trust or mortgage, and each assignment of beneficial interest by the licensee, if any. If any of the documents listed in this subsection have been recorded, the file shall also contain legible copies of the recorded documents, and:
   g. Itemized list of all fees taken in advance including appraisal fee, credit report fee, and application fee;
7. Samples of every piece of advertising relating to the mortgage banker’s business in Arizona;
8. Copies of governmental or regulatory compliance reviews;
9. If the licensee is not a natural person, a file containing:
   a. Organizational documents for the entity;
   b. Minutes;
   c. A record, such as a stock or ownership transfer ledger, showing ownership of all proportional equity interests in the licensee, ascertainable as of any given record date; and
   d. Annual report, if required by law;
10. If the licensee or anyone directly or indirectly owning more than 20% of the licensee has a felony conviction, a copy of the judgment or other record of conviction;
11. If the licensee or anyone directly or indirectly owning more than 20% of the licensee has, in the previous seven years, been named a defendant in any civil suit, a copy of the judgment or other record of conviction;
12. If the Superintendent has granted approval to maintain records outside this state, the specific address where the records are kept, and a person’s name to contact for them;
13. If a licensee does business in other states, it must be able to separate Arizona loan information from information relating to other states to enable the Superintendent to conduct an examination.
14. A licensee shall produce a trial balance of the general ledger monthly to evidence the mortgage banker’s net worth.

C. If 10 or fewer transactions have occurred during the prior calendar quarter, a licensee shall reconcile and update all records specified in subsection (B) at least once each calendar quarter. A licensee shall reconcile and update all records specified in subsection (B) monthly if more than 10 transactions occurred during the prior calendar quarter. In addition to reconciling each trust bank account, a licensee shall verify each trust balance to each trust subsidiary ledger at each reconciliation.

Historical Note
D. A licensee shall retain the documents described in subsections (B)(1) and (6) for the length of time provided in A.R.S. § 6-946. For the purposes of A.R.S. § 6-946, the mortgage banking loan’s closing date, on a loan application that did not result in the making of a loan, is either:
1. The date a licensee receives a written cancellation notice from an applicant; or
2. The date a licensee mails written notice to an applicant that an application has been denied, as required by federal law.

E. A licensee shall maintain all other records described in this Section, and not included in subsection (D), for at least two years.

Historical Note

R20-4-1807. Providing Copies of Records
For each loan closed in an Arizona mortgage broker’s name with a concurrent assignment of beneficial interest to a mortgage banker, the mortgage banker licensee shall provide to the mortgage broker in whose name the loan closed a copy of:
1. The closing instructions;
2. Any applicable rescission notice;
3. The HUD-1 settlement statement;
4. The final truth-in-lending disclosure;
5. The note;
6. The executed deed of trust or mortgage; and
7. Each assignment of beneficial interest by the mortgage banker licensee.

Historical Note

R20-4-1808. Authorization to Complete Blank Spaces
An authorization, under A.R.S. § 6-947, allowing a licensee or escrow agent to complete certain blank spaces in a document after it is signed by a party to the transaction shall:
1. Specifically identify the document and the blank spaces to be completed;
2. Be in writing, dated, and signed by the authorizing parties, and
3. Contain the following notice, conspicuously printed on its face: YOUR SIGNATURE BELOW AUTHORIZES YOUR MORTGAGE BANKER OR ESCROW AGENT TO FILL IN SPACES YOU LEFT BLANK IN SPECIFIED LOAN DOCUMENTS YOU ARE ABOUT TO SIGN OR MAY HAVE ALREADY SIGNED. UNDER STATE LAW YOU CAN GIVE THIS AUTHORITY, BUT YOU ARE NOT REQUIRED TO DO SO. YOU CAN REFUSE TO SIGN ANY DOCUMENTS UNTIL ALL BLANKS ARE COMPLETELY FILLED IN.

Historical Note

R20-4-1809. Determining Loan Amounts
The amount of a mortgage banking loan or a mortgage loan under A.R.S. § 6-947(E) or 6-947(K), is the principal amount of the loan and does not include any points, interest, finance charges, insurance premiums of any kind, compensation paid to third parties, or compensation retained by a mortgage banker or its agents.

Historical Note

R20-4-1810. Delay or Cause Delay
A mortgage banker does not delay or cause delay if the delay occurs due to events outside the control of the mortgage banker.

Historical Note

R20-4-1811. Impound Account
The total of all funds retained by a mortgage banker from all periodic payments made by a borrower to maintain a cushion, as defined in R20-4-102, shall not exceed 1/6th of the estimated total annual payments from the impound account.

Historical Note

R20-4-1812. Acquisition of Additional Interest in Licensee by Majority Owner
A person that owns 51% or more of a licensee’s outstanding voting equity interests, and that acquires the power to vote additional fractional equity interests, shall deliver written notice of the acquisition to the Superintendent. The person shall deliver the notice before completing the acquisition. Within 10 days after completing the acquisition, the person shall deliver documentation evidencing the acquisition to the Superintendent.

Historical Note

R20-4-1813. Conversion to Mortgage Broker License
Under A.R.S. § 6-949 to apply for a conversion from a mortgage banker license to a mortgage broker license, the applicant shall submit during the renewal period all applicable renewal documents and renewal fees required by A.R.S. §§ 6-126 and 6-903 for mortgage brokers.

Historical Note
New Section adopted by final rulemaking at 18 A.A.R. 2622, effective December 2, 2012 (Supp. 12-4).

ARTICLE 19. COMMERCIAL MORTGAGE BANKERS

R20-4-1901. Exemption for an Institutional Investor
A. The exemption from the licensure requirement for an institutional investor, solely as that term is used in A.R.S. §§ 6-971, 6-972, and this Article, applies only if a person claiming the exemption meets all the following criteria:
1. The claimant originates or directly or indirectly makes, negotiates, or offers to make or negotiate commercial mortgage loans that are all exclusively funded by the claimant’s own resources, as defined in A.R.S. § 6-971;
2. The claimant makes loans in the regular course of business;
3. The claimant makes only commercial mortgage loans, as defined in A.R.S. § 6-971;
4. The claimant makes each loan on the security of commercial property, as defined in A.R.S. § 6-971; and
5. The claimant makes only loans of more than $250,000.
B. If a claimant makes even one commercial mortgage loan that does not satisfy all the above criteria, any claim of exemption is invalid, and that person shall not engage in any lending activity before obtaining a license.
Historical Note

R20-4-1902. Exemption for an Entity Regulated by an Agency of this State, Other States, or by the United States
A. The exemption under A.R.S. § 6-972(9) only applies to a person whose offers to make or originate a "commercial mortgage loan," as that term is defined in A.R.S. § 6-971, and all commercial mortgage loans made or originated by the person are regulated directly by an agency of this state, any other state, or the United States.
B. The required regulation of the transactions listed in subsection (A) includes:
1. Rules governing a claimant’s accounting and recordkeeping practices;
2. The authority to examine a claimant’s books and records relating to its commercial mortgage lending activities;
3. The ability to place a claimant in a receivership or conservatorship with regard to the claimant’s commercial mortgage lending activities.

Historical Note

R20-4-1903. Equivalent and Related Experience
A. An applicant may satisfy the three years’ experience requirement of A.R.S. § 6-973 by the types of lending-related experience listed in this subsection. The Department counts each month in the following types of work experience towards the three years required either for a commercial mortgage banker license, or as a responsible individual, both under A.R.S. § 6-973(D). The Department counts a fractional month of experience, at least 15 days long, as a full month.
1. Commercial mortgage banker with an Arizona license, or Responsible Individual or branch manager for a licensee;
2. Mortgage broker with Arizona license, or Responsible Individual or branch manager for a licensee;
3. Mortgage banker with an Arizona license, or Responsible Individual or branch manager for a licensee;
4. Loan officer, with responsibility primarily for loans secured by lien interests on commercial real property;
5. Lender’s branch manager, with responsibility primarily for loans secured by lien interests on commercial real property;
6. Commercial mortgage banker with license from another state, or Responsible Individual for the commercial mortgage banker;
7. Mortgage broker with license from another state, or Responsible Individual for the commercial mortgage broker;
8. Mortgage banker with license from another state, or responsible individual for the mortgage banker;
9. Attorney certified by any state as a real estate specialist.
B. The experience of an applicant with insufficient actual experience of the types listed in subsection (A) is reviewed and evaluated on a case by case basis.

Historical Note

R20-4-1904. Restrictions on the Term of a Cash Alternative to a Surety Bond
A licensee or applicant shall not place a certificate of deposit or investment certificate as a cash alternative to a surety bond with the Superintendent that is renewable or expires earlier than 12 months from the date of issuance.

Historical Note

R20-4-1905. Requirements for a Person Intended to Oversee a Branch Office
A Person designated to oversee the operations of a branch office shall be knowledgeable about the branch activities of the licensee, supervise compliance by the branch with applicable law and rules, and have sufficient authority to ensure such compliance. One Person may oversee more than one branch.

Historical Note

R20-4-1906. Notification of Change of Address
If a licensee changes the licensee’s principal place of business, or the location of a branch office, the licensee shall notify the Superintendent within five business days after the address change. With the notice, a licensee shall provide the Superintendent with the license for the office changing its address and the fee required by A.R.S. § 6-126 for changing an office address. A copy of the license shall continue to be displayed at the place of business until a new license is issued.

Historical Note

R20-4-1907. Recordkeeping Requirements
A. The Superintendent shall approve a licensee’s use of a computer or mechanical recordkeeping system if the licensee gives the Superintendent advanced written notice that it intends to do so. The Department shall not require a licensee to keep a written copy of the records if the licensee can generate all information required by this Section in a timely manner for examination or other purposes. A licensee may add, delete, modify, or customize an approved computer or mechanical recordkeeping system’s hardware or software components. When requested, or in response to a written notice of an examination, a licensee shall report to the Superintendent any material alteration in the approved system’s fundamental character, medium, or function if the alteration changes:
1. Any approved computer or mechanical system back to a paper-based system; or
2. An approved mechanical system to a computer system; or
3. An approved computer system to a mechanical system.
B. In addition to any statutory requirement regarding records, a record maintained by a commercial mortgage banker shall include the following:
1. A list of all executed loan applications or executed fee agreements that includes the following information:
a. Applicant’s name;
b. Application date;
c. Amount of initial loan request;
d. Final disposition date;
e. Disposition (funded, denied); and
f. Name of loan officer;
2. A record, such as a cash receipts journal, of all money received in connection with commercial mortgage loans including:
a. Payor’s name;
b. Date received;
c. Amount; and
d. Receipt’s purpose including identification of a related loan, if any;
3. A sequential listing of checks written for each bank account relating to the commercial mortgage banker business, such as a cash disbursement journal, including:
   a. Payee’s name;
   b. Amount;
   c. Date; and
   d. Payment’s purpose including identification of a related loan, if any;

4. Bank account activity source documents for the commercial mortgage banker business including receipted deposit tickets, numbered receipts for cash, bank account statements, paid checks, and bank advices.

5. A trust subsidiary ledger for each borrower that deposits trust funds showing:
   a. Borrower’s name or co-borrowers’ names;
   b. Loan number, if any;
   c. Amount received;
   d. Purpose for the amount received;
   e. Date received;
   f. Date deposited into trust account;
   g. Amount disbursed;
   h. Date disbursed;
   i. Disbursement’s payee and purpose, and
   j. Balance.

6. A file for each application for a commercial mortgage loan containing:
   a. The agreement with the customer concerning the commercial mortgage banker’s services, whether as a loan application, fee agreement, or both;
   b. The documents showing the application’s final disposition, such as a settlement statements, a denial or withdrawal letter, or internal memorandum;
   c. Correspondence sent, received, or both by the licensee;
   d. Contract, agreement, and escrow instructions to or with any depository;
   e. If the loan is closed in the licensee’s name, a copy of all closing documents including: closing instructions, copy of the executed note, executed deed of trust or mortgage, and each assignment of beneficial interest by the licensee, if any. If any of the documents listed in this subsection have been recorded, the file shall also contain legible copies of the recorded documents, and
   f. Itemized list of all fees taken in advance including appraisal fee, credit report fee, and application fee.

7. Samples of every piece of advertising relating to the commercial mortgage banker’s business in Arizona;

8. Copies of governmental or regulatory reviews;

9. If the licensee is not a natural person, a file containing:
   a. Organizational documents for the entity;
   b. Minutes;
   c. A record, such as a stock or ownership transfer ledger, showing ownership of all proportional equity interests in the licensee, ascertainable as of any given record date; and
   d. Annual report, if required by law;

10. If the licensee or anyone directly or indirectly owning more than 20% of the licensee has a felony conviction, a copy of the judgment or other record of conviction.

11. If the licensee or anyone directly or indirectly owning more than 20% of the licensee has, in the previous seven years, been named a defendant in any civil suit, a copy of the complaint, any answer filed by the licensee, and any judgment, dismissal or other final order disposing of the action.

12. If the Superintendent has granted approval to maintain records outside this state, the specific address where the records are kept, and a person’s name to contact for them.

13. If a licensee does business in other states, it must be able to separate Arizona loan information from information relating to other states to enable the Superintendent to conduct an examination.

14. A licensee shall produce a trial balance of the general ledger monthly to evidence the commercial mortgage banker’s net worth.

C. If 10 or fewer transactions have occurred during the prior calendar quarter, a licensee shall reconcile and update all records specified in subsection (B) at least once each calendar quarter. A licensee shall reconcile and update all records specified in subsection (B) monthly if more than 10 transactions occurred during the prior calendar quarter. In addition to reconciling each trust bank account, a licensee shall verify each trust balance to each trust subsidiary ledger at each reconciliation.

D. A licensee shall retain the documents described in subsections (B)(1) and (6) for the length of time provided in A.R.S. § 6-983. For the purposes of A.R.S. § 6-983, the commercial mortgage loan’s closing date, on a loan application that did not result in the making of a loan, is either:
   1. The date a licensee receives a written cancellation notice from the applicant; or
   2. The date a licensee mails written notice to an applicant that an application has been denied; or
   3. The date of a licensee’s internal memorandum closing a loan file.

E. A licensee shall maintain all other records described in this Section, and not included in subsection (D), for at least two years.

Historical Note

R20-4-1908. Impound Accounts
The total of all funds, if any, retained by the commercial mortgage banker from all periodic payments made by the borrower to maintain a Cushion, as defined in R20-4-102, is limited only by the written agreement of the parties, if at all.

Historical Note

R20-4-1909. Authorization to Complete Blank Spaces
An authorization, under A.R.S. § 6-984, allowing a licensee or escrow agent to complete certain blank spaces in a document after it is signed by a party to the transaction shall:
   1. Specifically identify the document and the blank spaces to be completed;
   2. Be in writing, dated, and signed by the authorizing party, and
   3. Contain the following notice, conspicuously printed on its face: YOUR SIGNATURE BELOW AUTHORIZES YOUR COMMERCIAL MORTGAGE BANKER OR ESCROW AGENT TO FILL IN SPACES YOU LEFT BLANK IN SPECIFIED LOAN DOCUMENTS YOU ARE ABOUT TO SIGN OR MAY HAVE ALREADY SIGNED. UNDER STATE LAW YOU CAN GIVE THIS AUTHORITY, BUT YOU ARE NOT REQUIRED TO DO SO. YOU CAN REFUSE TO SIGN ANY DOCUMENTS UNTIL ALL BLANKS ARE COMPLETELY FILLED IN.
R20-4-1910. Delay or Cause Delay
A commercial mortgage banker does not delay or cause delay if the delay occurs due to events outside the control of the commercial mortgage banker.

Historical Note

R20-4-1911. Acquisition of Additional Interest in Licensee by Majority Owner
A person that owns 51% or more of a licensee’s outstanding voting equity interests, and that acquires the power to vote additional fractional equity interests, shall deliver written notice of the acquisition to the Superintendent. The person shall deliver the notice before completing the acquisition. Within 10 days after completing the acquisition, the person shall deliver documentation evidencing the acquisition to the Superintendent.

Historical Note