

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION
030 OFFICE OF CONSUMER CREDIT REGULATION
Chapter 500: CONTINUING EDUCATION REQUIREMENTS FOR
INDIVIDUALS REGISTERED AS LOAN OFFICERS, OR LICENSED AS
SUPERVISED LENDERS OR LOAN BROKERS

SUMMARY

Pursuant to 9-A M.R.S.A. § 6-104(1)(E), the Office of Consumer Credit Regulation (“the OCCR”) is authorized to adopt rules to carry out specific provisions of the Maine Consumer Credit Code, 9-A M.R.S.A. §§ 1-101 through 11-122. Title 9-A M.R.S.A. §§ 2-302(7), 10-201 and 10-305 grant the OCCR specific authority to regulate activities of supervised lenders, loan brokers and loan officers, including establishment of educational requirements for individuals licensed as supervised lenders or loan brokers, or registered as loan officers. By this new Chapter 500 of its Rules, the OCCR establishes such educational requirements, setting forth minimum hours for education, suggested course content and conditions for reciprocity.

I. AUTHORITY

Title 9-A M.R.S.A. §§ 6-104(1)(E), 2-302(7) and 10-201 grant the OCCR authority to promulgate this rule. It is a routine technical rule as defined by 5 M.R.S.A. § 8071(2)(A).

II. PURPOSE

This rule implements a program of educational requirements for individuals seeking licensure as supervised lenders or loan brokers, and those seeking registration as loan officers.

III. DEFINITIONS

For purposes of this rule, the following terms have the meanings set forth:

1. “Credit-hour” means 50 minutes of actual instruction time or testing/examination time.
2. “Loan Broker” has the same meaning as that term is defined by 9-A M.R.S.A. §10-102(1).
3. "Loan officer" has the same meaning as that term is defined by 9-A M.R.S.A. §1-301(22-A).
4. “Person subject to this rule” means an individual seeking licensure as a supervised lender or loan broker, and those seeking registration as a loan officer. The term includes individuals doing business or intending to do business under their own

name or under an assumed name, *e.g.*, the owner/principal of an unincorporated sole proprietorship or partnership.

5. “Qualifying course” or “certified course” means an educational course approved by the OCCR pursuant to this rule.
6. “Supervised lender” has the same meaning as that term is defined in 9-A M.R.S.A. §1-301(39).

IV. APPLICABILITY

Any person subject to this rule must meet the initial and continuing educational requirements set forth herein. Supervised lenders and loan brokers are responsible for ensuring compliance with this rule by loan officers employed or retained by them.

V. EDUCATIONAL REQUIREMENTS

1. *Requirements prior to January 31, 2008.* All persons subject to this rule who are licensed or registered prior to January 31, 2008 must:
 - a. Before January 31, 2008, complete a minimum of 12 credit-hours of approved courses or tests/examination; and
 - b. During each 12-month following January 31, 2008, complete 12 credit-hours of continuing education consisting of qualifying courses or tests/examinations.
2. *Requirements subsequent to January 31, 2008.* To qualify for licensure or registration after January 31, 2008, persons subject to this rule must complete a minimum of 16 credit-hours of approved courses or tests/examinations, which will satisfy this rule’s requirements for the period ending on January 31 immediately subsequent to qualification. Those individuals must thereafter complete an additional 12 credit-hours of approved continuing education during each subsequent 12-month period.

VI. CERTIFICATION; EDUCATION AND TESTING PROVIDERS

1. *Course certification.* Persons subject to this rule will be awarded credit only for courses and tests/examinations certified by the OCCR prior to instruction or testing. Individuals or companies providing instruction or testing can obtain certification by filing with the OCCR the form set forth as Attachment “A” hereto, which may from time to time be amended or be provided in an electronic version.
2. *Course providers.* The OCCR may request proposals from persons qualified to provide courses and tests/examinations. The OCCR may award contracts to one or more such persons.

VII. COSTS

The costs of meeting requirements of this rule shall be borne by the persons seeking licensure or renewal of licensure. Nothing in this section shall prevent a loan officer from bearing the costs of his or her own educational requirements.

VIII. REQUIRED COURSES AND EXAMINATIONS

1. *Maine-specific study for both initial and continuing requirements.* For any period in which a person subject to this rule is required to undertake 16 credit-hours of instruction, at least two of the 16 credit-hours must consist of a review of Maine laws and rules. For any period in which a person subject to this rule is required to undertake 12 credit-hours of instruction, at least one of the 12 credit-hours must consist of a review of Maine laws and rules. Areas of recommended instruction are provided in Attachment “B” hereto.
2. *Ethics study for both initial and continuing requirements.* For any period in which a person subject to this rule is required to undertake 16 credit-hours of instruction, at least two of the 16 credit-hours must consist of a study of ethics and ethical considerations affecting the mortgage industry. For any period in which a person subject to this rule is required to undertake 12 credit-hours of instruction, at least one of the 12 credit-hours must consist of a study of ethics and ethical considerations affecting the mortgage industry.
3. *Examinations.* All courses must include a proctored examination or other verifiable testing process intended to measure retention of course material. The time spent on an examination may be counted among the total credit-hours required. A course provider must retain for 24 months proof of students’ successful completion of examinations and must produce that proof upon the request of the OCCR.

IX. RECIPROCITY

If a course and its provider have met the requirements of regulators of mortgage lenders or brokers in another jurisdiction, there is a presumption that the course will be certified by the OCCR. The presumption will not exist for courses designed to be specific to a foreign jurisdiction. Except for the Maine-specific study required by Section VIII above, reciprocity on a credit-hour per credit-hour basis may be granted for courses addressing nationally-relevant subjects.

X. COURSE FORMAT AND INSTRUCTIONAL MEDIUM

Courses may be provided in a video or electronic format and may be certified, so long as the course provider can verify to the satisfaction of OCCR the identity of the student, the student’s attendance, completion of the course and satisfactory information retention, *i.e.*, a proctored examination or its equivalent. A course will not be denied certification solely because it is offered by a loan officer’s employer.

XI. VERIFICATION/PROOF OF EMPLOYEE EDUCATION

When supervised lenders and loan brokers complete biennial license renewal applications, they must certify that persons subject to this rule employed or retained by them have completed or will complete the necessary educational requirements of this rule in a timely manner. At other times, upon request of the OCCR, supervised lenders and loan brokers must provide proof of compliance, either to the OCCR or to a course provider approved by the OCCR. The OCCR may also accept proof of compliance from approved course providers or from persons subject to this rule, and proof may be in written, electronic or another form acceptable to the OCCR.

XII. PENALTIES

Failure to comply with this rule may result in imposition of penalties, including denial or revocation of licensure or registration, and assessment of costs pursuant to 9-A M.R.S.A. §§2-303-A and 10-401, 10 M.R.S.A. §§ 8003 and 8003-D, other applicable provisions of law.

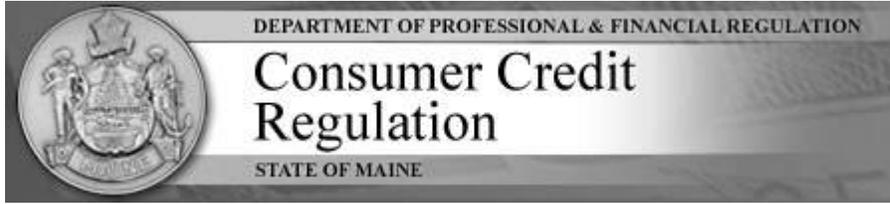
XIII. SUSPENSION OF RULE'S PROVISIONS

The Administrator may suspend any provisions of this rule, if the Administrator determines that compliance is impracticable due to unavailability of courses or instructors or other extenuating circumstance.

EFFECTIVE DATE:

February 10, 2007

ATTACHMENT 'A'



**Application for Course Certification:
Loan Officer, Loan Broker or Supervised
Lender Education Program**

**Office of Consumer Credit Regulation
35 State House Station
Augusta, ME 04333-0035
PH: (207) 624-8527
FAX: (207) 582-7699**

FOR OFFICE USE ONLY
PROGRAM # _____
CLOCK HRS _____
Approval Date _____
Approved By _____
Disapproved Date: _____
Disapproved By: _____

INSTRUCTOR CONTACT INFORMATION:

1. **PROGRAM SPONSOR:** _____

(School, organization or individual applying for program approval)

2. **CONTACT PERSON:** _____

(Person whom the OCCR contact regarding program questions or approval)

Street/P.O. Box _____ City _____

State: _____ Zip _____ Phone: () ____ - _____ FAX () ____ - _____

Email address: _____

3. **COURSE REGISTRAR:** _____

(Person whom participants will contact for information and or to register for the program)

Street/P.O. Box _____ City _____

State: _____ Zip _____ Phone: () ____ - _____ FAX () ____ - _____

Email address: _____

COURSE INFORMATION:

1. COURSE TITLE: _____

2. INSTRUCTOR: _____

3. FORMAT: (please check all that apply)

- Live/Classroom Setting Audio/Video
- Computer (CD or Diskette) Distance Learning
- TV (includes satellite & ITV) Internet

4. IS COURSE APPROVED IN OTHER STATES? _____ If yes, list states: _____

5. REQUIRED ATTACHMENTS (Check to confirm that each is attached):

- Instructor Résumé
- Course Syllabus/Summary

6. PROGRAM COST: \$ _____

7. PROGRAM SCHEDULE:

DATE	LOCATION OF CLASSROOM	CITY	STATE

8. DESCRIBE HOW ATTENDANCE IS ENSURED: _____

9. DESCRIBE HOW STUDENTS ARE TESTED TO MEASURE LEARNING: _____

CERTIFIED STATEMENT AND SIGNATURE OF PROGRAM SPONSOR OR AUTHORIZED SCHOOL OFFICIAL.

By my signature, I hereby agree to abide by the requirements and conditions set forth by Rule Chapter 500 of the State of Maine, Office of Consumer Credit Regulation pertaining to continuing education programs and certify that the information contained in this application is accurate and true to the best of my knowledge and belief.

Date

Signature

ATTACHMENT “B”

**State of Maine, Office of Consumer Credit Regulation
Suggested Material for Maine-specific Educational Requirement**

Below are suggested topics for the Maine law-specific course requirements of this rule. It is not intended either as an all-encompassing list or as an exclusive list, since appropriate topics for a Maine-specific course will vary over time as new laws are enacted and as lending products and trends develop and change.

- 1) Maine Consumer Credit Code (9-A M.R.S.A. §1-101 *et seq.*, hereinafter “the Code”), including Truth-in-Lending, consumer lending licensing, loan broker licensing and loan officer registration requirements, with particular attention to Article 9 of the Code, titled “Consumer Credit Transactions Secured by First-Lien Mortgages.”
- 2) Incorporation of HOEPA high-rate, high-fee provisions, and enactment of other anti-predatory lending laws, into Maine law; 9-A M.R.S.A. Article 8.
- 3) Maine’s “funded settlement” law; Title 33 M.R.S.A. §§521-527.
- 4) Maine’s “Bring your own title attorney” law and disclosure; 9-A M.R.S.A. §9-303.
- 5) The requirement for written agreement (contract) between a loan broker and a consumer, 9-A M.R.S.A. §10-302, and the related requirement that a supervised lender acting as a loan broker utilize the same type of contract, 9-A M.R.S.A. §10-102(1)(B)(2).
- 6) Maine’s requirement for payment of interest on escrow; 9-A M.R.S.A. §9-305 and 33 M.R.S.A. §504, and its prohibition against administrative fees charged to tax and insurance escrow accounts that have the effect of reducing the effective yield from the payment of interest on escrow.
- 7) The OCCR’s Rule, Chapter 250, “Alternative Mortgage Transactions.”

Public Comments Regarding Draft Rule and OCCR Responses

1. One commenter suggested that the term “loan officer” be changed to a more descriptive term such as “lending specialist” or “mortgage specialist.”

Response: OCCR opts not to accept this suggestion, since the term “loan officer” is derived from the Consumer Credit Code’s provisions relating to registration of loan officers and the authorization for this loan officer education rule.

2. One commenter listed specific courses that should be included in any educational program.

Response: The final rule lists two required areas of study: 1) Maine law and rules; and 2) ethics. Appendix “B” lists suggested courses for the Maine-specific educational courses.

3. Several commenters suggested that experienced loan officers be “grandfathered” from having to take initial educational courses.

Response: The final rule provides for a reduced number of required hours for all persons subject to this rule who are registered or licensed prior to January 31, 2008.

4. Many commenters suggested increasing the number of original course hours for both initial and continuing education. Some commenters suggested as many as 48 credit hours of initial education, and 24 credit hours per year of continuing educational requirements.

Response: The OCCR must carefully balance the protection of the public with the need to avoid overburdening the industry and also the need to avoid expending inordinate OCCR resources to administer the program. Compared to the initial draft rule, the final rule increases the initial educational requirements from 10 credit hours to 16 credit hours and the continuing educational requirements from 10 credit hours to 12 credit hours. OCCR has decided that 2 days of training per year for new loan officers and 1-1/2 days per year for existing loan officers, strikes an appropriate balance among needed education, industry burden and administrative burden.

5. One commenter suggested that a credit hour be defined as 50 minutes, to provide specification and to accommodate appropriate rest breaks.

Response: This suggestion has been adopted.

6. Many commenters recommended that OCCR require that all courses include an examination.

Response: This suggestion has been adopted. The time spent on the exam is included in the definition of “credit hour.”

7. One commenter suggested that “in-house” educational programs be permitted.

Response: This suggestion has been adopted; see Section X. However, such in-house training is subject to all the requirements otherwise applicable to all courses (*e.g.*, identity of student, attendance, completion, and retention/examination).

8. One commenter suggested that minimum qualifications be established for all trainers.

Response: Appendix “A”, the application for course certification, has been amended to require a résumé listing the course provider’s qualifications. Courses will be certified only if the course provider is qualified, such as through experience in the industry and experience instructing.

9. Many commenters were critical of the proposed rule’s statement that the costs of education were the responsibility of the lenders and brokers for whom loan officers worked.

Response: Section VI of the rule has been amended to make clear that a loan officer can pay for his or her course costs. The purpose of the parallel section of law is to clarify that the State is not responsible for the costs of the courses. Licensed loan brokers and supervised lenders have the discretion to apportion costs within their companies in any manner they deem appropriate.

10. One commenter urged OCCR not to certify courses simply because they have been approved for use in other states. The commenter expressed concern for “certificate mills” that do not provide quality education.

Response: The rule creates a presumption, but not automatic approval, for courses approved in other states. In response to this comment, OCCR amended the Maine course certification form (Appendix “A”) to inquire about approval in other states. This change makes it clear that all other applicable standards must be met before a course is certified for use in Maine.

11. Two commenters suggested that educational providers report on their students who successfully complete the class and examination, as a way to reduce fraud and increase loan officer compliance with the educational requirements.

Response: The OCCR does not have the resources to develop a system to receive information from course providers concerning individual courses. At the time of this rule promulgation, about 17,000 individual loan officers are registered. While this rule permits acceptance of this information, it would take a large system to accept reporting from course providers on all those loan officers. Rather, OCCR plans to 1) require that all supervised lenders and loan brokers certify as to the compliance of loan officers employed or retained by them, at the time of biennial license renewal, and 2) utilize regular compliance examinations, or announced or unannounced audits, to ensure compliance with the rule.

12. One commenter opposed the rule in any form, stating that it would reduce options for consumers by driving some lenders and loan brokers out of the business.

Response: Lender and loan broker advocacy group have pressured OCCR and the Maine Legislature for several years to enact educational requirements for loan officers. They argued, successfully, that individuals handling large sums of money and obtaining or arranging loans for consumers should have a certain level of education. With this rule OCCR has attempted to keep the regulatory burden to a minimum while giving deference to the Legislature's intent that OCCR be responsible for structuring educational requirements for loan officers.

13. Five or more commenters wrote to specifically express support for the rule, and to urge only minor changes to the initial draft, except to specify exactly what courses should be taken.

Response: OCCR has opted not to require completion of specific courses (*e.g.*, RESPA, HOEPA, Truth-in-Lending, Gramm-Leach-Bliley), since while the agency knows what courses appear relevant at this particular moment in time, those priorities may change, and new laws and new products will certainly appear that warrant educational attention. OCCR has provided specific suggestions for the Maine-specific course (see Attachment "B"), and the agency has required an ethics component, but beyond that the agency is opting at this time to permit course presenters to provide course composition at their discretion for OCCR's review and approval.

14. Several commenters asked for clarification on the numbers of hours that must be completed and to which groups of individuals each requirement would apply.

Response: OCCR combined two sections of the draft rule into a single section titled "Educational Requirements," in an effort to clarify educational responsibilities of persons subject to this rule who register or are licensed prior to January 31, 2008, and of those who wish to qualify for registration or licensure after January 31, 2008.

15. A question arose concerning the impact of unknown events, such as a lack of course providers, given the 17,000 loan officers from around the country and around the world who are registered with OCCR as of the end of 2006.

Response: The final rule authorizes the Administrator to waive certain requirements if unforeseen circumstances render compliance impracticable.