

Title 10
FINANCIAL INSTITUTIONS, CONSUMER CREDIT,
INVESTMENT SECURITIES
AND UCC

Chapter 5. Applications
Subchapter A. Certificate of Authority
for New Financial Institutions;
Branches; or Relocation of Main Office
or Branch Office

§501. Definitions

Applicant - one or more natural persons or a state-chartered financial institution seeking a certificate of authority from the commissioner to transact business as a financial institution, or a branch thereof, as defined below.

Application - shall consist of forms provided by the commissioner, submitted in a form acceptable to the commissioner, along with all supporting documents, requesting that a certificate of authority be granted.

Branch or *Branch Office* - for the purpose of making application to this Office means any manned office of a bank. This excludes off-site electronic financial terminals and loan production offices which are owned or leased by the financial institution.

Commissioner - the Commissioner of Financial Institutions.

Electronic Financial Terminal (EFT) –

1. an electronic information processing device, other than a telephone, which is established to do either or both of the following:
 - a. capture the data necessary to initiate financial transactions; or
 - b. through its attendant support system, store or initiate the transmission of the information necessary to consummate a financial transaction;
2. the term includes, without limitation, point of sale terminals, merchant-operated terminals, script or cash dispensing machines, and automated teller machines.

Financial Institution - any bank, savings bank, homestead association, building and loan association, or savings and loan association chartered by the commissioner.

Investigation - the commissioner or any examiner or examiners designated by the commissioner shall make such investigations as deemed necessary to assist in the determination of matters pending before the commissioner. The investigation shall include an examination of each of the six factors detailed in §503.C.

Loan Production Office - a location, other than the financial institution's main office, branch office or subsidiary corporation, with the authority to lend money, where the employees of a financial institution or its subsidiary conduct the solicitation and origination of applications for loans, provided that the loans are approved and made at the main office, branch office or subsidiary corporation.

"Phantom" Financial Institution - a corporation organized as a state, nondeposit taking financial institution, for the purpose of facilitating the organization of a holding company.

Relocation of a Branch Office - a movement within the same neighborhood that does not substantially affect the nature of business or customers served.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 19:1414 (November 1993), amended by the Office of the Governor, Office of Financial Institutions, LR 31:2894 (November 2005).

§503. Application for Certificate of Authority

A. Scope. This rule applies to applications for a certificate of authority under R.S. 6:101 et seq.

B. Application Filing and Notice

1. Applications shall be in such form and contain such information as the commissioner may from time to time prescribe. Application forms may be obtained from the office of the commissioner. The application shall contain a public section and a confidential section. The public section shall include comments and information submitted by interested persons in favor of or in opposition to such application.
2. The original and one copy of the application must be submitted in completed form to the commissioner. Applicants seeking a certificate of authority to operate as a savings bank must also submit a business plan as required by R.S. 6:1125. Any application not substantially complete will not be accepted for filing and will be returned to the applicant resulting in processing delay.
3. Within 30 days prior to receipt of application by the commissioner, applicant must publish a one-time notice in a newspaper of general circulation in the community in which the institution/branch is to be located. The published notice will contain such information as deemed necessary by the commissioner. A sample notice will be provided together with the application forms.
4. Proof of publication must be submitted to the commissioner before processing of the application can be completed. In the case of an acquisition of a failed or failing financial institution, requirement for publishing a notice will be waived.

5. Upon acceptance of the application for filing, notice in writing will be given to financial institutions in the community in which the institution/branch office is to be located. This notice will allow for a reasonable comment period, normally 14 calendar days.
6. Upon acceptance of the application for filing, the commissioner or any examiner or examiners designated by the commissioner will conduct an investigation. Information not included in the application, which is necessary to determine the six factors described below, will be requested from the applicant. Processing of an application will not be completed until the satisfactory conclusion of the investigation.

C. Factors to be Considered. Six factors within the application are to be considered:

1. financial history and condition;
2. distribution and adequacy of capital;
3. future earnings prospects;
4. management;
5. convenience and needs of the community;
6. corporate powers.

D. Acquisition of a Failed or Failing Financial Institution. The commissioner may waive any provision of this rule which is not required by statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 19:1415 (November 1993).

§505. Application to Relocate a Main Office or Branch Office

A financial institution desiring to relocate its main office or an existing branch office must make application to the commissioner. Five of the above factors to be considered for a new branch office will also be considered for a relocation. Convenience and needs of the community will not be considered for a branch office relocation since a relocation does not substantially affect the nature of business or customers served. An application to relocate a main office must address the convenience and needs of the community unless the relocation does not substantially affect the nature of business or customers served.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121(B)(1).

HISTORICAL NOTE: Promulgated by Department of Economic Development, Office of Financial Institutions, LR 19:1415 (November 1993).

§507. Application for Electronic Financial Terminal (EFT)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 19:1415 (November 1993), repealed by the Office of the Governor, Office of Financial Institutions, LR 31:2894 (November 2005).

§509. Application for Loan Production Office (LPO)

A. Definitions

Applicant - financial institution seeking a certificate of authority from the commissioner.

Application - shall consist of forms prescribed by the commissioner, submitted in a completed form, along with all supporting documents and other information required by this rule which requests the issuance of a certificate of authority.

Commissioner - the Commissioner of Financial Institutions.

Financial Institution - any bank, savings bank, homestead association, building and loan association or savings and loan association.

Letter of Notification - the documents filed by a federally-chartered or out-of-state state-chartered financial institution seeking to establish an in-state loan production office.

Loan Production Office - a physically manned location, other than the financial institution's main office or any branch office, which is subject to the provisions of this rule and whose employees conduct the solicitation and origination of applications for loans, provided that such loans are approved and made at the financial institution's main office or any branch office.

B. Application

1. **Filing.** All applications and notifications filed in accordance with this rule shall be accompanied by a nonrefundable fee as prescribed by the commissioner and shall be in such form and contain such information as the commissioner may from time to time prescribe. When application is made, an original and one copy must be submitted. The commissioner may approve a substantially complete application after consideration of the factors put forth in the following Sections. A reasonable amount of time may be utilized in analysis of these factors and additional information may be requested when deemed necessary. The applicant must obtain approval from its board of directors prior to the submission of any materials pursuant to an application.

2. Louisiana State-Chartered Financial Institution for In-State Loan Production Office: Factors to be Considered. The following five factors shall be considered within the application as well as any additional factors deemed necessary and appropriate:
 - a. financial history and condition;
 - b. adequacy of capital;
 - c. future earnings prospects;
 - d. management;
 - e. convenience and needs of the community.
3. Louisiana State-Chartered Financial Institution for an Out-of-State Loan Production Office. In addition to the requirements in §509.B.2, a Louisiana state-chartered financial institution seeking to establish a loan production office out-of-state shall submit the following:
 - a. a "no objection letter" from the appropriate chartering authority of the state in which the loan production office is to be located;
 - b. a letter or other evidence of authority from the secretary of state of the state in which the loan production office is to be located, indicating that the applicant is authorized to do business in that state.
4. Out-of-State Financial Institution for an In-state Loan Production Office. An out-of-state financial institution seeking to establish a loan production office in-state must submit the following:
 - a. a letter of notification to the commissioner giving the applicant institution's name, address, telephone number and the physical address of the proposed loan production office;
 - b. a letter or other evidence of authority from the Louisiana secretary of state's office (if applicable) indicating that the applicant is authorized to do business in this state.
5. In-State Federally-Chartered Financial Institution for an In-State Loan Production Office. An in-state federally-chartered financial institution shall submit a letter of notification to the commissioner giving the applicant institution's name, address, telephone number and the physical address of the proposed loan production office.
6. Approval Process. The commissioner may approve any request to establish a loan production office unless he finds that the proposed operation violates the provisions of this rule or any other pertinent provision of law. The commissioner may, in his sole discretion, assign written reasons for his decision which shall be released only to the applicant.

C. Activities

1. Permissible Activities. A loan production office of a Louisiana state-chartered financial institution is limited to the following activities:
 - a. soliciting loans on behalf of the financial institution or one of its wholly-owned subsidiaries by any means which discloses the nature and limitations of the loan production office;

- b. providing information on loan rates and terms;
 - c. interviewing and counseling loan applicants regarding loans and any provisions for disclosure required by various regulation;
 - d. aiding customers in the completion of loan applications including the obtaining of credit investigations, the ordering of title insurance, mortgage certificates, hazard insurance or any other information deemed necessary to insure that the loan application is complete;
 - e. accepting loan payments;
 - f. signing or accepting notes, security agreements or other instruments obligating the loan customer to the financial institution; and
 - g. delivering loan proceeds to the customer so long as the check is written at the financial institution's main office or any branch office and not at the loan production office.
2. Prohibited Activities. A loan production office of a Louisiana state-chartered financial institution is prohibited from conducting or engaging in the following:
- a. providing forms which enable the customer to open deposit accounts directly or by mail;
 - b. counseling customers regarding savings accounts, checking accounts or any other services except loan origination services;
 - c. advertising, stating or implying that the loan production office provides services other than loan origination services;
 - d. providing information to a customer concerning the status of the customer's nonloan accounts at the financial institution;
 - e. charging, or providing for the charging of, interest on loans running from a date prior to the time the proceeds of the loan are actually disbursed to the customer by the financial institution's main office or any branch office;
 - f. approving loans or making lending decisions. Approval of loans at the main office or any branch office shall be in accordance with safe and sound lending practices, including a review of the credit quality of the loan and a determination that it meets the applicant's credit standards. In making an independent credit decision, the employee at the main office or any branch office may consider recommendations made by the loan production office as a factor when assessing the credit quality of the loan; and
 - g. operating an electronic financial terminal (EFT) facility within the loan production office.

D. Closure or Change of Location of Loan Production Office

1. The prior written approval of the commissioner is required at least 30 days prior to the closure or change of location of a loan production office of a Louisiana state-chartered financial institution. The notification of a relocation shall contain the current physical address of the loan production office, the proposed new address and the anticipated date of relocation. Louisiana state-chartered financial institutions shall also furnish the estimated cost of relocation, a statement indicating whether any insiders are involved in the proposed new location and a copy of the proposed lease for the new facilities. The notification of a closure shall include the current location of the loan production office, the reason for the closure and the anticipated date of the closure. This provision may be waived by the commissioner.
2. If the loan production office of a Louisiana state-chartered financial institution participates in the activity of accepting loan payments, all customers of the financial institution must be given reasonable prior notice of the closure of the loan production office. This notification should include an alternative address at which loan payments can be made.

E. Other

1. **Periodic Inspection.** Upon issuance of a certificate of authority, a loan production office operated by a Louisiana state-chartered financial institution may be subject to periodic inspection by the Office of Financial Institutions to ensure compliance with its rules and regulations concerning loan production office activities. In order to ensure compliance with the rules and regulations concerning loan production office activities, the commissioner may order an inspection of an out-of-state loan production office of a Louisiana state-chartered financial institution. All expenses incurred by this office as a result of the inspection shall be paid in full by the financial institution. Should the operations of a loan production office be found to be in noncompliance under this rule, the commissioner may revoke the loan production office's certificate of authority or take any other measure deemed necessary under his powers pursuant to R.S. 6:121.1 or any other pertinent provisions of law.
2. **Emergency Issuance of Certificate of Authority.** In the case of the acquisition of a failed or failing financial institution, the commissioner may waive any provision of this rule which is not required by statute for the purpose of issuing a certificate of authority to operate a loan production office by the acquiring institution.
3. **Name.** Loan production offices of financial institutions shall include the words "loan production office" in their title, official documents, letterhead, advertisements, signs or in any other medium prescribed by the commissioner. The words "loan production office" must be reproduced in at least as large a font size as the name of the financial institution.
4. **Sharing of Loan Production Quarters.** Loan production quarters may be shared by one or more financial institutions provided that each financial institution complies with the provisions of this rule. In addition, a written agreement between all parties, approved by their respective boards of directors, must be submitted to the commissioner for approval prior to commencement of operations.

The agreement should outline the manner in which:

- a. the operations of each financial institution will be separately identified and maintained within the loan production quarters;
 - b. the assets and records will be segregated;
 - c. expenses will be shared;
 - d. confidentiality of the financial institution's records will be maintained; and
 - e. any additional provisions deemed applicable.
5. Any request for an exception and/or waiver of any provision of this rule requires the written approval of the commissioner.
 6. The commissioner shall impose a fee for an application or notification made under this rule in accordance with this office's fees and assessments rule.
 7. Effective Date. This rule shall become effective upon final publication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:452.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 21:1217 (November 1995).