



# COMMONWEALTH OF MASSACHUSETTS

## Office of Consumer Affairs and Business Regulation DIVISION OF BANKS

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June 15, 2017

### **INDUSTRY LETTER REGARDING APPLICABILITY OF MORTGAGE LOAN ORIGINATOR LICENSING TO INDIVIDUALS EMPLOYED BY NONPROFIT ENTITIES**

TO: All Interested Parties:

The Division of Banks (the Division) has issued this industry letter to clarify the circumstances under which an employee of a nonprofit agency is required to obtain a license as a mortgage loan originator (MLO) under General Laws, chapter 255F.

#### Historical Background

Pursuant to the Division's July 17, 2008 [Opinion 08-018, "Opinion on exemption for certain nonprofits from mortgage licensing statutes"](#) (the Opinion), the mortgage licensing requirements applicable to mortgage lenders and brokers do not apply to nonprofit entities incorporated under the laws of the Commonwealth that are tax exempt under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code and whose mortgage activities are exclusively limited to government programs and the use of public funds. The Opinion further clarified that an employee of a nonprofit agency that was exempt from licensure was not required to obtain an individual MLO license. **However, as of July 31, 2009, amendments to M.G.L. c. 255F altered the regulatory scheme to require that any person that meets the definition of a mortgage loan originator must be licensed as such, even if he or she is employed by a nonprofit entity that is exempt from licensure as a mortgage lender or mortgage broker.**

#### Issue

The Division has become aware that some nonprofit entities exempted from the mortgage lender and mortgage broker license requirements may have failed to properly license their employees who were acting as MLOs, as was required after July 31, 2009. The Division is issuing this Industry Letter as a reminder to nonprofits that MLO licensing requirements may be applicable to some of their employees.

#### When a Mortgage Loan Originator License is Required

Pursuant to M.G.L. c. 255F, § 1, a mortgage loan originator is defined as "a person who for compensation or gain or in the expectation of compensation or gain: (i) takes a residential mortgage loan application; or (ii) offers or negotiates terms of a residential mortgage loan." The Division interprets "compensation or gain" to include receiving a salary. For example, if an employee assists a borrower to refinance a mortgage loan, thus originating a new mortgage loan secured by the residential property, a mortgage loan originator license would be required. However, it is the Division's position that an MLO

license would not be required in order to assist a borrower with a loan modification that does not result in a new mortgage loan.

#### Next Steps

All nonprofits are advised to immediately review the activities of their employees to ascertain if such employees need to be licensed as MLOs in Massachusetts. Individuals that are determined to be engaged in compensated mortgage loan originator activity should be instructed to undertake the actions detailed below to obtain an MLO license. Alternatively, nonprofits may re-evaluate their activities to ensure that their employees do not act as MLOs going forward.

#### Obtaining a Mortgage Loan Originator License

Prior to obtaining an MLO license, individuals must pay licensing fees, complete pre-licensing coursework, and pass a written test. MLO applicants must apply for licensure through the Nationwide Multi-State Licensing System & Registry (NMLS) and be “sponsored” by the nonprofit employer. In order for a nonprofit to sponsor an individual MLO, it will register as an “exempt company” through the NMLS. Please consult the [NMLS Resource Center](#) for more information on Massachusetts licensing and registration requirements.

#### Enforcement

The Division recognizes that the changes made to c. 255F may have caused confusion in the industry. Therefore, at this time, no action will be taken against nonprofit entities or their employees for unlicensed MLO activity. However, after December 31, 2017, any nonexempt individuals engaging in unlicensed MLO activity, and any nonprofit employing such unlicensed individuals, may be subject to enforcement action pursuant to the [Division’s Regulatory Bulletin 5.1-101 Enforcement Policy for Unlicensed Entities](#).

Should you have any questions with regard to this letter, please contact Deputy Commissioner Kevin Cuff 617-956-1500 x61539 or [kevin.cuff@state.ma.us](mailto:kevin.cuff@state.ma.us).

Sincerely,



Terence A. McGinnis  
Commissioner of Banks  
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