

Steps Toward National Licensing

As loan-officer-licensing legislation reaches more states, organizations propose national tools

By **Herbert H. Thomas**, president, Thomas Law Firm P.C.

IN JUST FOUR YEARS, THE NUMBER of states with legislation for licensing loan officers (LOs) has increased from three to 33. Plus, seven more states have introduced and are considering implementing such legislation.

Much of the increase in loan-officer licensing has been spurred by the anti-predatory-lending movement. In an effort to clean up mortgage fraud and excess fees, industry members have encouraged state legislatures to pass laws to require the licensing of individual loan officers and to regulate and enforce their activities.

In fact, the purpose of LO licensing is to: 1. identify and eliminate individuals who are taking unfair advantage of borrowers and damaging the reputation of ethical mortgage brokers; 2. bolster the mortgage industry's image; and 3. increase consumer confidence in mortgage brokers.

Some say that the varying state-licensing requirements may deter mortgage companies from doing business in multiple states, as it can be cost-prohibitive. National solutions have been proposed on the government level and from the private sector to address this.

The government system

The Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators (AARMR) have joined together to develop a nationwide licensing system for the residential mortgage industry. The agencies

say this system will enhance consumer protection and streamline the licensing process.

This system, scheduled to begin in January 2008, will be Web-based and will allow lenders and brokers to apply for, amend, update or renew

(NAMB) has expressed its opposition to the system. Although NAMB supports stronger licensing requirements, it says the government system appears to have: security breaches; inadequate disclosures; unclear parameters regarding what

States Committed to National Licensing

AL, AR, AZ, CT, DC, GA, IA, ID, IN, KY, LA, MA, MD, MI, MS, MT, NC, ND, NE, NH, OK, OR, PA, RI, SD, VT, WA and WY.

licenses using uniform forms from participating state agencies. It will provide consumer access to a central database of licensing and publicly adjudicated enforcement actions. Licensees and applicants can access the system through a secure Web site.

To date, 30 state agencies have indicated their commitment to try to participate in the system by the end of 2009 (see above). The CSBS expects four to six state agencies to transition into the system each quarter during 2008 and 2009.

Many mortgage professionals believe that the government national-licensing system is not the answer, however. Some reasons cited are:

- **Insufficient participation:** Even though several states have signed on to participate in the system, some of the larger states have not, including California, Florida, Illinois, New York and Texas. This may be because large states do not want to lose control of their investigative processes and cash flow.

- **Underlying laws are not uniform:** The system's uniformity of information and processing stops with the applications. It does not require uniformity of the most-complex parts of the licensing process, including the many attachments and ancillary documents. Requiring this would require states to adopt identical legislation for licensing, which could be a political nightmare and would take years to accomplish.

- **Opposition from some associations:** The National Association of Mortgage Brokers

negative information is collected and disclosed; and failure to include all loan originators.

- **Long start-up time:** The mere amount of time it will take to get all the states to join the system is a deterring factor that may prevent it from being the single solution to uniform licensing.

- **Complex requirements for each state will still exist:** This database stores data and populates applications, but it does not automate the licensing process. Several aspects to the process, from bonds and personal financials to net-worth requirements, license exemptions and continuing education, vary per state, and only legislation can unify them. Such an effort could take several years.

Private-sector solutions

Some private-sector licensing companies also are working to create uniform national licensing. Their ideas may include automated online technology with expert content in all states for complete mortgage-licensing compliance. This could include processing, license information and help with meeting continuing-education requirements.

These private-sector systems are designed to ensure total compliance for mortgage companies working in multiple states. They could help companies:

- **Qualify for exemptions.** The system could identify whether a company qualifies for U.S. Department of Housing and Urban Development license exemptions, for example,

Continued ...



Herbert H. Thomas is president of Thomas Law Firm P.C. in Dallas. It is the premier mortgage-licensing firm on state mortgage licensing and provides automated online mortgage-licensing technology and services

for mortgage brokers and lenders in all 50 states. Thomas is a juris doctor and member of the state bar of Texas. He has more than 17 years of state and federal mortgage-licensing experience. Reach him at (214) 692-7611 or hthomas@thomas-law.com. For more information, see www.thomas-law.com.

REPRINTED FROM *SCOTSMAN GUIDE RESIDENTIAL EDITION* AND SCOTSMANGUIDE.COM, JULY 2007

All rights reserved. Third-party reproduction for redistribution is prohibited without contractual consent from Scotsman Publishing Inc.

Steps Toward National Licensing

... Continued

which could save it from having to apply for licenses for some of its loan originators.

- **Use alternate licenses.** The system could help companies determine if they can use certain alternative licenses. This could save the company from having to apply for several loan-officer licenses among its branches.

- **Reduce filing fees.** By reducing the number of LO licenses a company needs, its filing fees also are reduced significantly. This can make the number of licenses needed and the costs more manageable.

■ ■ ■

Legislators, state-enforcement agencies, anti-predatory-lending groups, mortgage-broker associations and consumer advocates are serious about cleaning up the mortgage industry's image. These industry participants surely will continue to push for new legislation and enforcement of loan-officer licensing.

Indeed, the 33 states that currently have LO licensing requirements are serious about enforcing their laws through heavy fines, cease-and-desist orders and company-license revocations. The only way to survive the wave of this legislation is to comply with the various state requirements.

And the ultimate goal of both the government-agency and private-sector systems is to help mortgage companies and loan officers stay on top of the legislation nationwide. **!!**