

NOTICE OF PROPOSED CHANGES ON MORTGAGE LENDING  
IN THE REGULATIONS OF THE DEPARTMENT OF COMMERCE,  
COMMUNITY, AND ECONOMIC DEVELOPMENT

BRIEF DESCRIPTION

The Department of Commerce, Community, and Economic Development proposes regulations to streamline licensing through the Nationwide Multistate Licensing System and Registry (NMLS), establish requirements to submit an application for a nonprofit organization to apply for an exemption, and update and clarify various sections throughout 3 AAC 14.

The Department of Commerce, Community, and Economic Development proposes to adopt regulation changes in Title 3, Chapter 14, of the Alaska Administrative Code, dealing with mortgage lending, including the following:

- (1) Adopt regulations to implement Ch. 9, SLA 19 (CSHB 104 (L&C) am S). The bill details can be found at <http://www.akleg.gov/basis/Bill/Detail/31?Root=hb104>
- (2) Make amendments throughout the 3 AAC 14 to require and facilitate submission of applications through the NMLS registry (registry).
- (3) Repeal and adopt regulations throughout 3 AAC 14 to clarify application requirements and the documentation that will be required for a nonprofit organization to apply for an exemption and to establish the licensing requirements and forms required in the registry for a nonprofit organization to apply for an exemption from the mortgage licensing requirements in AS 06.60.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Tracy Reno, Division of Banking and Securities, Department of Commerce, Community, and Economic Development, 550 W. 7<sup>th</sup> Avenue, Suite 1850, Anchorage, AK 99501. Additionally, the Department of Commerce, Community, and Economic Development (“Department”) will accept comments by facsimile at (907) 269-8146 and by electronic mail at [dbsregs@alaska.gov](mailto:dbsregs@alaska.gov). Comments may also be submitted through the Alaska Online Public Notice System by accessing this notice on the system and using the comment link. **The comments must be received not later than December 2, 2019.**

You may submit written questions relevant to the proposed action to Tracy Reno by electronic mail at [dbsregs@alaska.gov](mailto:dbsregs@alaska.gov) or by mail at Division of Banking and Securities, Department of Commerce, Community, and Economic Development, 550 W. 7<sup>th</sup> Avenue, Suite 1850, Anchorage, AK 99501. **The questions must be received at least 10 days before the end of the public comment period.** The Department will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System and the Division of Banking and Securities’ website at



3 AAC 14.020 is amended to read:

**3 AAC 14.020. Mortgage loan originator license or exemption required**

(a) A person, including a sole proprietor or control person of a mortgage licensee or a registered depository institution, and an individual who works under a mortgage licensee or a registered depository institution, may not operate in the state as a mortgage loan originator with respect to a dwelling or residential real estate in the state unless licensed by the department as a mortgage loan originator.

(b) **Individuals covered under AS 06.60.015(b)** [THE FOLLOWING] are exempt from the licensing requirements of this section.[:]

[(1) AN INDIVIDUAL COVERED UNDER AS 06.60.015(b); AND

(2) AN EMPLOYEE OF A GOVERNMENT AGENCY UNDER AS

06.60.015(a)(4) WHO ACTS AS A MORTGAGE LOAN ORIGINATOR ONLY UNDER THE EMPLOYEES'S OFFICIAL DUTIES FOR THAT AGENCY.]

**(c) A bona fide nonprofit organization referenced in AS 06.60.015(a)(5) and AS 06.60.015(c) may submit an application for an exemption registration to the department through the registry to determine if they qualify for an exemption. In addition to the information required through AS 06.60.015(c), to apply for an exemption an application must contain**

**(1) a complete MU1 form;**

**(2) a current business license issued under AS 43.70;**

**(3) documentation of the tax exempt 501(c)(3) status;**

**(4) complete and current articles of incorporation and bylaws, and a**

**certificate of good standing issued by the domestic state; and if the corporation is not organized in this state, a copy of the corporation's certificate of authority to transact business in this state.**

**(5) policies and procedures detailing how the organization ensures that it and its mortgage loan originators meet the requirements of AS 06.60.330;**

**(6) a list of Other Trade Names if operating under a name that is different from the applicant's legal name.**

**(7) details of all mortgage loan programs available to consumers that includes the interest rate, terms, underwriting guidelines, flyers, websites where advertised and funding source;**

**(8) a list of mortgage loan originators that are currently under contract with the organization, list of training/education, date of most recent criminal background and credit checks and details of their compensation plan;**

**(9) documentation or explanation of affordable housing promotion or homeownership education;**

**(10) Organization and management charts;**

**(11) Business plan related to mortgage origination activities;**

**(12) A list of any consumer complaints received, resolution and management response.**

**(13) any other information the department reasonably requires with respect to the applicant.**

(Eff. 12/4/2010, Register 196; am \_\_/\_\_/\_\_\_\_, Register \_\_\_\_)

Authority: AS 06.01.010      AS 06.60.015      AS 06.60.910

AS 44.33.020

3 AAC 14.055 is amended to read:

**3 AAC 14.055. Application for mortgage license.** To apply for a mortgage license under AS 06.60.020, a person must submit **to the department through the registry**

[(1) TO THE REGISTRY]

(~~1~~[A]) a complete Form MUI;

(~~2~~[B]) a complete Form MU2 for a control person [, QUALIFYING INDIVIDUAL,] and branch manager of the applicant;

(~~3~~[C]) a financial statement in compliance with 3 AAC 14.054;

(~~4~~[D]) the designation of a registered agent under 3 AAC 14.057;

[E A DESIGNATION OF THE QUALIFYING INDIVIDUAL FOR THE APPLICANT UNDER 3 AAC 14.058; AND]

(~~5~~[F]) if the registry accepts fingerprints for the purpose of conducting a criminal history background check of a mortgage license applicant, consent to a federal criminal history record check and a complete set of fingerprints in a form acceptable to the registry for the applicant and each control person of the applicant;

[(2) TO THE DEPARTMENT]

(~~6~~[A]) a copy of the applicant's current business license issued under AS 43.70;

(~~7~~[B]) for an applicant that is a business entity,

(~~A~~[i]) documentation of the business organization and authorization under 3 AAC 14.056; and

(~~B~~[ii]) a copy of the current filing, with the department division overseeing corporations, that designates the registered agent in the state;

(8[C]) a copy of the **certificate of** business name registration [FORM], **issued by the division overseeing corporations,** for [THE LEGAL NAME OF THE APPLICANT] **each other trade name used by the applicant as described in 3 AAC 14.059.** [, SUBMITTED TO AND STAMPED "RECEIVED" BY THE DEPARTMENT DIVISION OVERSEEING CORPORATIONS];

[(D) IF THE APPLICANT IS APPLYING FOR THE USE OF ONE OR MORE OTHER TRADE NAMES ON THE FORM MU1 A COPY, AS REQUIRED UNDER 3 AAC 14.059, OF THE BUSINESS NAME REGISTRATION FORM FOR EACH OTHER TRADE NAME, SUBMITTED TO AND STAMPED "RECEIVED" BY THE DEPARTMENT DIVISION OVERSEEING CORPORATIONS;]

(9[E]) [IF THE REGISTRY DOES NOT ACCEPT FINGERPRINTS FOR A MORTGAGE LICENSE APPLICANT,] two complete sets of fingerprints in a form acceptable to the Department of Public Safety for the applicant and a control person of the applicant, **if the registry does not accept fingerprints for a mortgage license applicant;**

(10[F]) authorization under AS 06.60.027(a)(2) for the registry and the department to obtain for the applicant and a control person of the applicant

(a[i]) an independent credit report from a consumer reporting agency; and

(b[ii]) information related to administrative, civil, or criminal findings by a governmental jurisdiction; and

(11[G]) if the answer to any of the disclosure questions on the Form MUI or Form MU2 is "yes," complete details in writing of each event or proceeding, including as applicable, the name and location of the court, the docket or case number, and the status and summary of the event or proceeding, and a copy of an applicable charge, order, or consent agreement; and

(~~12~~[3]) other information, documentation, and payments as allowed by AS 06.60 and required by the department.

(Eff. 12/4/2010, Register 196; am \_\_/\_\_/\_\_\_\_, Register \_\_\_\_)

Authority: AS 06.60.015 AS 06.60.910 AS 44.33.020

3 AAC 14.058 is repealed:

**3 AAC 14.058. Qualifying individual for mortgage licensee.**

Each applicant for a mortgage license must designate a qualifying individual on the Form MU1.

(Eff. 12/4/2010, Register 196; repealed \_\_/\_\_/\_\_\_\_, Register \_\_\_\_)

3 AAC 14.059 is amended to read:

**3 AAC 14.059. Use of other trade name.** (a) If an applicant for a mortgage license intends to use one or more other trade names, the applicant must disclose each other trade name on the Form MU1.

(b) A mortgage licensee may conduct business using more than one other trade name only if the mortgage licensee obtains a separate mortgage license for each other trade name under which the mortgage licensee intends to do business. An applicant for a mortgage license may not receive more than six mortgage licenses with different trade names.

(c) At the time of filing the Form MU1, and for each other trade name filed on the Form MU1, an applicant for a mortgage license must submit to the department **through the registry**, a copy of the **certificate of** business name registration [FILED WITH AND STAMPED “RECEIVED”] **issued** by the [DEPARTMENT] division overseeing corporations.

(Eff. 12/4/2010, Register 196; am \_\_/\_\_/\_\_\_\_, Register \_\_\_\_)

Authority: AS 06.60.015 AS 06.60.910

3 AAC 14.060(6). is amended to read:

**3 AAC 14.060. Application for originator license**

(6) to the registry proof that the applicant has completed the pre-licensing education required under AS 06.60.038. **If an applicant fails to acquire a valid mortgage loan originator license or federal registration within three years from the date of federal compliance with any approved pre-licensure education program or who has obtained a mortgage loan originator license or federal registration but did not maintain a valid license or federal registration for at least three years, the applicant must complete another 20 hours of approved pre-licensing education in order to be eligible for state mortgage loan originator licensure;**

(Eff. 12/4/2010, Register 196; am \_\_/\_\_/\_\_\_\_, Register \_\_\_\_)

Authority: AS 06.60.020 AS 06.60.027 AS 06.60.035  
AS 06.60.040 AS 06.60.910

3 AAC 14.072 is amended by adding a new subsection to read:

**3 AAC 14.072. Application and license fees (e) The nonrefundable fee for an annual bona fide nonprofit exemption registration under AS 06.60.015(e) is \$400.00, which shall be paid to the department through the registry each year for the period that expires on December 31 after the date the registration is issued. An organization that chooses to apply for a bona fide nonprofit exemption registration will be required to apply annually on or**



**after November 1 to ensure it continues to comply with the Act. The application must be received by the Department through the registry by December 1.**

(Eff. 12/4/2010, Register 196; am \_\_/\_\_/\_\_\_\_, Register \_\_\_\_)

Authority: AS 06.60.015 AS 06.60.910

3 AAC 14.330 is amended to read:

**3 AAC 14.330. Surrender of mortgage license and registered exempt bona fide nonprofit**

**organization. (a)** The voluntary surrender of a mortgage license is not effective until the mortgage licensee has provided proof acceptable to the department that all loans of that mortgage licensee have either been paid in full or sold. **A surrender checklist shall be submitted to the department through the registry and approved by the department.**

**(b) The voluntary surrender of a registered exempt bona fide nonprofit organization is not effective until a surrender checklist is submitted to the department through the registry and approved by the department.**

**(c) There is no fee to surrender.**

(Eff. 12/4/2010, Register 196; am \_\_/\_\_/\_\_\_\_, Register \_\_\_\_)

Authority: AS 06.60.015 AS 06.60.080 AS 06.60.097

AS 06.60.910

3 AAC 14.420(a) is amended to read:

**3 AAC 14.420. Records of mortgage licensee, registered exempt bona fide nonprofit organization or registered depository institution. (a)** A mortgage licensee, **registered exempt bona fide nonprofit organization** or a registered depository institution shall maintain...

3 AAC 14.435 is amended to read:

**3 AAC 14.435. Shared business location** A mortgage licensee, **a registered exempt bona fide nonprofit organization** or a registered depository institution may share office space with another business if each business

(1) has office space and signage that are sufficiently separate and distinct for a reasonable

customer to understand which business the customer is transacting business with at all times;

(2) operates as a separate legal entity with distinct personnel; and

(3) maintains separate accounts, books, and records.

(Eff. 12/4/2010, Register 196; am \_\_/\_\_/\_\_, Register \_\_\_\_)

**Authority AS 06.60.910**

3 AAC 14.440 is amended to read:

**3 AAC 14.440. Amendments to information on file with department within or outside the registry** A licensee, **registered exempt bona fide nonprofit organization** or a registered depository institution shall notify the department in writing no later than seven days after a change in a document or information previously submitted directly to the department. A licensee, **registered exempt bona fide nonprofit organization** or a registered depository institution shall submit an amendment to the department through the registry no later than seven days after any change in the information **that was** [THE LICENSEE OR A REGISTERED DEPOSITORY INSTITUTION HAS] previously submitted to the department through the registry, unless a different time period is otherwise specified.

3 AAC 14 is amended by adding new sections to read:

**3 AAC 14.520. Bona fide nonprofit organization exemption registration** The following statutes apply to bona fide nonprofit organizations who wish to complete an application for exemption:

- (a) AS 06.60.135 Records of mortgage licensee;
- (b) AS 06.60.200 Disciplinary action;
- (c) AS 06.60.250 Investigation and examination authority;
- (d) AS 06.60.330 Compliance with federal requirements;
- (e) AS 06.60.340 Prohibited activities;
- (f) AS 06.60.400 – 430;
- (g) AS 06.60.850 – 860.

(Eff. 12/4/2010, Register 196; am \_\_/\_\_/\_\_\_\_, Register \_\_\_\_)

Authority: AS 06.60.015 AS 06.60.910

**3 AAC 14.525. Investigation and examination of an exempt bona fide nonprofit**

**organization** The department shall investigate and examine the affairs, business, office, and records of the organization at intervals the department considers appropriate as necessary to carry out the purposes of this chapter. The department may conduct an examination without prior notice. Examination fees are to be charged to and paid by the organization in accordance with AS 06.01.010. The department may maintain an action for the recovery of the costs in any court of competent jurisdiction. Within 30 days after the department requests payment, the licensee shall pay the department the cost of examination in accordance with AS 06.01.010 and any

expenses required to be paid for each representative of the department who is reasonably necessary to conduct the investigation or examination plus travel costs, including a per diem allowance that does not exceed the per diem allowance for employees of the state under AS 39.20.100.

(Eff. 12/4/2010, Register 196; am \_\_/\_\_/\_\_\_\_, Register \_\_\_\_)

Authority: AS 06.60.015 AS 06.60.910

3 AAC 14.990(a) is amended to read:

**3 AAC 14.990. Definitions**

(a) In this chapter, unless the context requires otherwise,

(1) "branch manager" means an individual who is in charge of and responsible for the business operations of a branch office of a mortgage licensee;

(2) "business entity"

(A) means a form of business ownership other than a natural person; and

(B) includes a corporation, limited liability company, partnership, limited partnership, limited liability partnership, and trust;

(3) "Form MU1" means the uniform mortgage lender and mortgage broker license application developed and used by the registry;

(4) "Form MU2" means the uniform mortgage biographical statement and consent form developed and used by the registry;

(5) "Form MU3" means the uniform mortgage branch office form developed and used by the registry;

(6) "Form MU4" means the uniform individual mortgage license, registration, and consent form developed and used by the registry;

(7) "other trade name" means a name other than the legal name of a business entity;

[(8) "QUALIFYING INDIVIDUAL" IS THE PERSON IN CHARGE OF THE BUSINESS OPERATIONS OF THE MORTGAGE LICENSEE WITH RESPONSIBILITY AND AUTHORITY TO SUPERVISE AND CONTROL THE OPERATIONS IN THIS STATE;]

(~~8~~[9]) "registered agent" means a person located in this state and appointed to accept service of process;

(~~9~~[10]) "mortgage loan originator's home" means the current residential address as listed on the mortgage loan originator's Form MU4.

3 AAC 14.990(b) is amended to read:

**3 AAC 14.990(b).** In AS 06.60 and this chapter, unless the context requires otherwise,

...

**(8) "the loan does not have a payment schedule that results in negative amortization" means the loan must be fully amortized and each payment includes principal and interest to fulfill the loan obligation without a balloon payment. During the term of the loan the outstanding principal balance decreases and a loan has equal payments during the term of the loan except for the last payment which shall be equal to or less than the monthly payment.**

**(9) "registry" means the Nationwide Multistate Licensing System and**

**Registry (NMLS), a licensing system owned and operated by the State Regulatory Registry, LLC, for the licensing and registration of persons in the mortgage and other financial services industries. Previously known as the Nationwide Mortgage Licensing System and Registry.**

(Eff. 12/4/2010, Register 196; am \_\_/\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority: AS 06.60.015 AS 06.60.910 AS 06.60.990**