



STATE OF CONNECTICUT
DEPARTMENT OF BANKING
CONSUMER CREDIT DIVISION
260 CONSTITUTION PLAZA – HARTFORD, CT 06103-1800



MEMORANDUM

TO: All Licensed Mortgage Lenders, Mortgage Correspondent Lenders and Mortgage Brokers
FROM: Carmine Costa, Director, Consumer Credit Division *cc*
RE: Loan Processing and Underwriting
DATE: October 23, 2015

This memorandum is being transmitted to all licensed mortgage lenders, mortgage correspondent lenders and mortgage brokers in Connecticut to help communicate a requirement in our law. This memorandum pertains to loan processor or underwriter activities¹ performed in connection with your organization's business by individuals who do not hold either a mortgage loan originator ("MLO") license² or a loan processor or underwriter ("LPUW") license.

Please be advised that Section 36a-486(b)(1) of the Connecticut General Statutes provides, in pertinent part, that: "No person licensed as a mortgage lender, mortgage correspondent lender or mortgage broker shall engage the services . . . of a loan processor or underwriter required to be licensed under this section unless such . . . loan processor or underwriter is licensed under section 36a-489." Section 36a-486(b)(3) of the Connecticut General Statutes, as amended by Public Act 15-14, provides, in pertinent part, that "no individual shall engage in the activities of a loan processor or underwriter unless such individual obtains and maintains a license as a loan processor or underwriter under section 36a-489."

Individuals within your organization are **exempt** from the requirement to obtain an individual LPUW license **if** they are **employees**³ engaging in loan processor or underwriter activities **in connection with residential mortgage loans that your organization either originated or made and at the direction of and subject to the supervision of one of your licensed MLOs**. See Section 36a-486(b)(3)(A), as amended. This means:

¹Loan processor or underwriter activities are clerical and support duties. Section 36a-485(13) of the Connecticut General Statutes. "Clerical and support duties" are further defined to include, "subsequent to the receipt of an application, (A) the receipt, collection, distribution and analysis of information common for the processing or underwriting of a residential mortgage loan, and (B) communication with a consumer to obtain the information necessary for the processing or underwriting of a loan to the extent that such communication does not include offering or negotiating loan rates or terms or counseling consumers about residential mortgage loan rates or terms." *Id.*

²Licensed MLOs may engage in loan processor or underwriter activities for your organization under their MLO license and are not the subject of this memorandum. See Section 36a-488(c)(1) of the Connecticut General Statutes.

³"Employee" means, in pertinent part, "an individual (A) whose manner and means of work performance are subject to the right of control of, or are controlled by, a person, and (B) whose compensation is reported or required to be reported on a W-2 form issued by the controlling person". See Section 36a-485(7) of the Connecticut General Statutes.

TEL: (860) 240-8299 • FAX: (860) 240-8178

Website: <http://www.ct.gov/dob>

An Affirmative Action/Equal Opportunity Employer

- If you have individuals who engage in loan processor or underwriter activities and they are not employees of your organization, they require LPUW licensure.
- If you have individuals who engage in loan processor or underwriter activities as employees of your organization but they are engaged in those activities for residential mortgage loans that your organization did not originate or make, they require LPUW licensure.
- If you have individuals who engage in loan processing or underwriting activities as employees of your organization for residential mortgage loans that your organization originated or made, but those individuals are not being directed or supervised by one of your licensed MLOs, they require LPUW licensure.

Another exemption is set forth in Section 36a-486(b)(3)(C), as amended, which provides that a LPUW license is not required for “[a]ny individual engaged, in any capacity in loan processor or underwriter activities in connection with a residential mortgage loan originated by an individual not required to be licensed or registered as a mortgage loan originator under this part”.

Please review the underwriting and processing activities performed by individuals without a license within your organization.

The Division intends to pursue administrative actions against licensees who retain the services of individuals without requisite LPUW licensure. Such administrative actions may be taken against your organization directly under Section 36a-494 of the Connecticut General Statutes, as amended by Public Act 15-235, for a violation of Section 36a-486(b)(1), which includes, but is not limited to, actions seeking to impose cease and desist orders and civil penalties.

You can avoid the institution of an administrative action against your organization on this issue by promptly reviewing your loan processor and underwriter activities and having any individual who requires licensure apply for a license. Please refer to Section 36a-489(b)(1) of the Connecticut General Statutes for the licensure requirements governing LPUWs.

The Division intends to defer initiation of administrative actions on this stand-alone issue if the individuals needing LPUW licensure within your organization apply for a license on NMLS **no later than December 31, 2015**.

If you have any questions, please contact Richard Cortes at Richard.Cortes@ct.gov or (860) 240-8138.