


MEMORANDUM

TO: All Connecticut Mortgage Correspondent Lender Licensees
FROM: Howard F. Pitkin, Banking Commissioner
RE: No Action Position on Mortgage Servicer Licensing Requirement for Mortgage Correspondent Lenders
DATE: October 30, 2014



Section 36a-718(a) of the Connecticut General Statutes, as amended by Public Act 14-89, provides:

On and after January 1, 2015, no person shall act as a mortgage servicer, directly or indirectly, without first obtaining a license . . . from the commissioner for its main office and each branch office where such business is conducted, unless such person is exempt from licensure pursuant to subsection (b) of this section.

Among other things, Section 36a-718(b)(4) of the Connecticut General Statutes, as amended by Public Act 14-89 provides an exemption for:

any person licensed as a mortgage lender in this state while acting as a mortgage servicer from a location licensed as a main office or branch office under sections 36a-485 to 36a-498f, inclusive, . . . 36a-534a and 36a-534b, . . . provided (A) such person meets the supplemental mortgage servicer surety bond, fidelity bond and errors and omissions coverage requirements under section 8 of . . . [public act 14-89] . . . (the "Exemption").

The question has arisen as to whether or not licensed *mortgage correspondent lenders* are also covered by the Exemption.

Section 36a-715 of the Connecticut General Statutes, as amended by Public Act 14-89, separately defines the terms "mortgage lender" and "mortgage correspondent lender" for purposes of Sections 36a-715 to 36a-718, inclusive, and Sections 5 to 17, inclusive, of Public Act 14-89.¹ "Mortgage lender" means "a person engaged in the business of making residential mortgage loans in such person's own name utilizing such person's own funds or by funding loans through a warehouse agreement, table funding agreement or similar agreement." "Mortgage correspondent lender" means "a person engaged in the business of making residential mortgage loans in such person's own name where the loans are not held by such person for more than ninety days and are funded by another person through a warehouse agreement, table funding agreement or similar agreement."

Although licensed mortgage correspondent lenders engage in a subset of the activities of licensed mortgage lenders, the separate definitions of these terms makes it clear that they are not covered by the

1. See Section 36a-485, as amended by Public Act 14-89.

Exemption, which is limited to licensed “mortgage lenders.” Accordingly, if a licensed mortgage correspondent lender meets the definition of “mortgage servicer” set forth in Section 36a-715, as amended, and acts in a mortgage servicer capacity with respect to more than five (5) residential mortgage loans in a 12-month consecutive period,² it is required to obtain a mortgage servicer license. Because they are required to be licensed and not covered by the Exemption, Section 8 of Public Act 14-89 also requires them to obtain mortgage servicing bonds and insurance.

By definition, mortgage correspondent lenders are limited to a holding period that shall not exceed 90 days on the residential mortgage loans they make. Thus, in the normal course of business, they should typically find themselves engaged in few instances of servicing activity on a per loan basis. This minimal servicing activity correspondingly limits the attendant risk to Connecticut consumers. Given the fact that such entities are otherwise already licensed and regulated by this Department in connection with the residential mortgage loans they make, it seems unduly burdensome to require a licensed mortgage correspondent lender to obtain a separate license as a mortgage servicer and additional bonds and insurance to cover occasional servicing activities.

Accordingly, and consistent with Section 36a-1-8 of the Regulations of Connecticut State Agencies, the Department takes a “no action” position regarding both the mortgage servicer licensing requirement set forth in Section 36a-718(a), as amended, as well as the supplemental bonding and insurance requirements imposed by Section 8 of Public Act 14-89 for mortgage correspondent lenders who may act as mortgage servicers during the 90-day holding period in connection with residential mortgage loans they make from a Connecticut licensed location.

Despite the Department’s position on these requirements, licensed mortgage correspondent lenders remain subject to all of the conduct requirements and standards imposed by the mortgage servicing laws on mortgage servicers. *Compare* Section 36a-718(c) of the Connecticut General Statutes, as amended, *with* Section 17 of Public Act 14-89. Please be advised that the Department’s position is subject to change and does not constitute a waiver of any existing law or regulation.

2. *See* Section 36a-715 of the Connecticut General Statutes, as amended by Public Act 14-89 (defining “mortgage servicer”). *See also* Section 17 of Public Act 14-89 (providing, among other things, a *de minimis* exemption from the mortgage servicer licensure requirement).