



**CONSUMER CREDIT DIVISION
ADMINISTRATIVE INTERPRETATION 2022-01
April 26, 2022**

**BUSINESSES ENGAGED IN THIRD-PARTY MORTGAGE PROCESSING AND UNDERWRITING (ALONE)
LICENSING INTERPRETATION**

This Administrative Interpretation is issued by the Consumer Credit Division of the Indiana Department of Financial Institutions (“the Department”). As a result of several inquiries, the Department issues this interpretation to clarify that a business engaged in third-party processing and underwriting (alone) does not need an Indiana mortgage lending license for first lien mortgage lending (Indiana Code §24-4.4 *et seq*) or subordinate lien mortgage lending (Indiana Code §24-4.5 *et seq*). As used in this interpretation, a third-party processor or underwriter means a business that performs such services for others. Nothing has changed regarding the licensing process.

Businesses Engaging in Third-Party Mortgage Processing and/or Underwriting Activities May Not Need a License

A. First Lien Mortgage Lending

Businesses engaged in third-party mortgage loan processing and/or underwriting (alone) are not person’s subject to licensing by the Department. This is the interpretation:

1. Businesses engaged in third-party mortgage processing and/or underwriting (alone) are not persons subject to licensing by the Department under Indiana Code 24-4.4-2-401(1).
2. Such businesses are not persons subject to licensing by the Department based on the following interpretation:
 - a. The businesses do not meet the definition of a creditor under Indiana Code 24-4.4-1-301(7). In other words, a third-party processor or underwriter business (alone) is not regularly engaged in the extension of first lien mortgage transactions.
 - b. The businesses do not meet the definition of a licensee under Indiana Code 24-4.4-1-301(17). In other words, a third-party processor or underwriter business (alone) is not a person licensed to engage in mortgage transactions as a creditor.
 - c. The transactions of such businesses do not meet the definition of a first lien mortgage transaction under Indiana Code 24-4.4-1-301(14). In other words, the transactions of a third-party processor or underwriter business are in the nature described in the definition of a loan processor or underwriter under Indiana Code 24-4.4-1-301(20).

B. Subordinate Lien Mortgage Lending

Businesses engaged in third-party mortgage loan processing and/or underwriting (alone) are not person’s subject to licensing by the Department. This is the interpretation:

1. Businesses engaged in third-party mortgage processing and/or underwriting (alone) are not persons subject to licensing by the Department under Indiana Code 24-4.5-3-502.1.
2. Such businesses are not persons subject to licensing by the Department based on the following interpretation:
 - a. The businesses do not meet the definition of a creditor under Indiana Code 24-4.5-1-301.5(11). In other words, a third-party processor or underwriter business (alone) is not regularly engaged in the extension of consumer credit.
 - b. The businesses do not meet the definition of a licensee under Indiana Code 24-4.5-1-301.5(22). In other words, a third-party processor or underwriter business (alone) is not a person licensed as a creditor.
 - c. The transactions of such businesses do not meet the definition of a subordinate lien mortgage transaction under Indiana Code 24-4.5-1-301.5(42). In other words, the transactions of a third-party processor or underwriter business are in the nature described in the definition of a loan processor or underwriter under Indiana Code 24-4.5-1-301.5(24).

When Is a Mortgage Lending License Required by the Department?

Please review the Department's "New Application Checklist (Company)" available on the NMLS website.

What About Businesses Engaging in Third-Party Mortgage Processing and/or Underwriting Activities for Loan Brokers?

If a company is engaging in loan processing and/or underwriting activities for Indiana SOS Loan Broker licensees, the company should contact the Indiana Secretary of State by phone at 317-232-6681 or by email at compliance@sos.in.gov for third-party processing and underwriting licensure/registration requirements.

This Administrative Interpretation is in effect unless later amended or withdrawn. It is not a substitute for advice from a company's or individual's legal counsel.

Questions? Call or email us.
Consumer Credit Division at 317-453-2566; dfilicensing@dfi.in.gov
Legal Division at 800-382-4880 or 317-232-3955; legal@dfi.in.gov