



Connie Lawson
Secretary of State

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State of Indiana

Securities Division

Alex Glass
Securities Commissioner

COMPLIANCE ALERT

TO: All individuals operating in the mortgage loan broker industry in the State of Indiana
FROM: Alex Glass, Securities Commissioner
DATE: June 3, 2019
RE: Legislative Changes Regarding the Loan Broker Act

On July 1, 2019, Indiana House Enrolled Act No. 1440 (“HEA 1440”) will go into effect. The legislation repeals Ind. Code § 23-2-5 and adds Ind. Code § 23-2.5 as a new Article. The new Article reorganizes current provisions regulating loan brokers and adds or otherwise updates provisions to adapt to progress in technology and industry practices. Some of the provisions that will have the greatest impact on the regulation of the mortgage loan broker industry are detailed below, as well as the effect on existing licensees. While this alert provides an overview of the legislation, there are many changes to the regulation of the mortgage loan broker industry in the new Article and you are encouraged to read the legislation in its entirety. We encourage you to seek out counsel if you have questions regarding how the new Article will impact your business.

Effect on Existing Licensees

HEA 1440 accounts for the effects the legislation will have on existing licensees. Licensees that have been approved at the time the legislation goes into effect will not be required to meet the registration requirements of the new Article until the licensee applies for renewal or makes a change to an existing registration. Any initial registrations received after July 1, 2019 will require compliance under the new Article.

Changes to Internal Supervision Structure

Under the current Loan Broker Act, any loan broker office requires a unique principal manager in order to operate. This requirement fails to account for the ease at which technology allows an individual to work remotely. HEA 1440 will still require a principal manager to be associated with each loan broker office, however, one principal manager can now be associated with up to five loan broker offices eliminating the need for each office to retain a unique principal manager. The principal manager will be required to conduct an annual audit of each loan broker office with which it is associated as the principal manager, among other requirements. Eliminating the need for a unique principal manager will minimize the hurdles that loan brokers face when attempting to operate more than one loan broker office.

Branch offices will now be required to designate a branch manager, in addition to the required association with a principal manager. The branch manager will be licensed by the Indiana Secretary of State, Securities Division and will be responsible for the actions of the employees at the branch office. Individuals licensed as either a principal manager or mortgage loan originator may serve as the branch manager.

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Loan Processing Companies

Prior to enactment of HEA 1440, third-party loan processing companies were operating in Indiana without any regulatory oversight. The legislation introduces a new notice filing for third-party loan processing companies. Loan processing companies will be required to submit a notice filing on an annual basis through the NMLS along with a twenty-five dollar (\$25) filing fee. Loan processing companies will be subject to record retention requirements similar to the requirements for loan brokers. Employees of a loan processing company will be required to be licensed as a mortgage loan originator.

From the perspective of a loan broker, the loan broker is prohibited from engaging with a loan processing company unless the loan processing company has complied with the notice filing requirements. Further, any loan broker which engages a loan processing company is responsible for diligently reviewing the work of the loan processing company.

Changes to Electronic Surety Bond Requirements

HEA 1440 changes the surety bond requirement from a tiered structure to a flat amount of sixty thousand dollars (\$60,000). Previously, the surety bond amount was based upon the total amount of residential mortgage loans originated by the loan broker. This change provides clear direction for loan brokers during the registration process. The surety bond covers the activities of each principal manager and mortgage loan originator employed by the loan broker. The surety bonds will continue to be submitted electronically through the NMLS.

Dates of Renewals

HEA 1440 requires that all licensees under the new Article submit renewals at least thirty (30) days prior to the expiration of their current license. Licenses expire annually on December 31, therefore, renewals must be submitted at least 30 days prior to December 31.

Reinstatement

In the past, the State of Indiana has permitted filers to utilize the NMLS reinstatement period for companies and individuals that do not submit their license renewals in a timely manner. HEA 1440 does not permit late filers to utilize the reinstatement period and any filing received after the renewal period will be late and the filer will not be able to conduct business until the filing is reviewed by the Securities Division.

Questions regarding this Alert should be directed to Daniel Spungen by phone 317-234-2741 or email at dspungen@sos.in.gov.

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