



ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

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REGULATORY BULLETIN

LO-13-01

DATE: January 8, 2013
TO: All Licensed Attorneys
FROM: Robert D. Charlton, Assistant Superintendent
Lauren W. Kingry, Superintendent
RE: **Loan Originator**

The purpose of this Regulatory Bulletin is to bring to the attention of licensed attorneys the licensing requirements for loan originators.

A.R.S. § 6-991(12)(a): "Loan originator": (a) Means a natural person who for compensation or gain or in the expectation of compensation or gain does any of the following: (i) Takes a residential mortgage loan application. (ii) Offers or negotiates terms of a residential mortgage loan. (iii) On behalf of a borrower, negotiates with a lender or noteholder to obtain a temporary or permanent modification in an existing residential mortgage loan agreement.

The licensing requirement for loan originators may apply to attorneys, realtors, escrow agents or any other professionals or individuals if such a person takes a residential mortgage loan application or engages in negotiations with a lender on behalf of a property owner regarding modification of an existing residential mortgage loan agreement, and if he or she does so for compensation or gain or in the expectation of compensation or gain. *See* A.R.S. § 6-991. Accordingly, unless exempted pursuant to A.R.S. § 6-991.01(7), an individual engaging in negotiations on behalf of a borrower to obtain a loan modification is required to be licensed as a loan originator by the Arizona Department of Financial Institutions.

However, A.R.S. § 6-991.01(7) provides an exemption for attorneys which states:

This article does not apply to:

A licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a lender, a mortgage broker or any other loan originator or by any agent of the lender, mortgage broker or other loan originator.

A licensed attorney performing activities that come within the definition of a loan originator is exempt provided such activities are:

- (1) considered by the state's court of last resort (or other state governing body responsible for regulating the practice of law) to be part of the authorized practice of law within the state;
- (2) carried out within an attorney-client relationship; and
- (3) accomplished by the attorney in compliance with all applicable laws, rules, ethics, and standards.

For questions regarding this Regulatory Alert, please contact The Arizona Department of Financial Institutions, Financial Services Division, at (602) 771-2777.

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