

## INTERPRETATIVE OPINION NO. 3

### INDEPENDENT LOAN PROCESSING COMPANIES

The Nebraska Department of Banking and Finance (“Department”) hereby issues this Interpretative Opinion regarding the licensing requirements for Independent Loan Processing Companies under the Residential Mortgage Licensing Act.

Neb. Rev. Stat. § 45-702 (15) defines the term “mortgage banker or mortgage banking business” to mean “any person (a) other than (i) a person exempt under section 45-703, (ii) an individual who is a loan processor or underwriter, or (iii) an individual who is licensed in this state as a mortgage loan originator and (b) who, for compensation or gain or in the expectation of compensation or gain, directly or indirectly makes, originates, services, negotiates, acquires, sells, arranges for, or offers to make, originate, service, negotiate, acquire, sell, or arrange for a residential mortgage loan.”

The Department interprets the term “originate(s)” in Section 45-702(15) to mean any residential mortgage loan-related activity from the taking of a residential mortgage loan application through the completion of all required loan closing documents and funding of the residential mortgage loan. This definition is consistent with the definition of “origination of a mortgage loan” as such term is used in the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (“SAFE Act”) and in the United States Department of Housing and Urban Development’s SAFE Act final rule. 12 CFR 1008.103.

The Department is aware that there are entities which provide third-party processing services for lenders originating residential mortgage loans secured by dwellings located in Nebraska. Loan processing and underwriting are activities that are an essential component of the origination of the residential mortgage loan and they occur between the taking of the application and the closing and funding of the residential mortgage loan. Therefore, these activities constitute “originating a mortgage loan” and an entity performing loan processing and underwriting services in connection with residential mortgage loans secured by a dwelling located in Nebraska is acting as a mortgage banker. Such entity must be licensed in accordance with Section 45-705 or must qualify for an exemption from licensure pursuant to Section 45-703.

In the case of an independent loan processing or underwriting company which has obtained a mortgage banker license (or qualifies for an exemption from licensing), the individuals who conduct the loan processing and underwriting activities do not need to be licensed if they are employees of the company and supervised by a licensed or registered mortgage loan originator.<sup>1</sup> All other individuals who are not employees of the licensee and supervised by a licensed or registered mortgage loan originator are required to obtain a mortgage loan originator license prior to conducting loan processing or underwriting on behalf of an independent mortgage processing company.

EFFECTIVE DATE: April 16, 2012

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<sup>1</sup> See Interpretative Opinion #2