



ISSUE PAPER

Subject: State Licensing of Mortgage Lenders

Issue: States have traditionally licensed mortgage companies; however a growing number of states are moving beyond corporate licensing and requiring the licensing of loan officers and even support staff. Additionally, an increasing number of states are adding onerous requirements to existing mortgage company licensing. These new laws and regulations are adding significant costs to mortgage companies, particularly for national and multi-state lenders. Some lenders believe that the increase and expansion of these state laws has placed state-licensed mortgage companies at a disadvantage in relation to federally chartered financial institutions.

Background: States have traditionally licensed mortgage lenders and mortgage brokers as a means to monitor the mortgage industry in their state, to prevent abusive lending, and protect consumers' interests. Licensing also provides states with additional revenue, which is derived from the various fees charged in obtaining and maintaining a license. Currently 49 states sustain a mortgage banking licensing system.

Licensing generally requires a mortgage lender or broker to meet certain requirements and be approved by the state, in order to originate mortgages in that state. Registration is distinct from licensing. Registration lacks qualifying criteria and merely requires the listing of certain information that identifies a mortgage lender or broker to a state agency as originating mortgages in that state.

Increasingly, states are enacting legislation that adds particularly onerous requirements to the licensing requirements for mortgage lenders, or moves beyond corporate licensing by requiring the licensing or registration of individual loan officers, and other employees of licensed mortgage companies. In fact, nearly three dozen states have passed first- and/or subordinate-lien residential mortgage licensing statutes that include individual loan officer registration or licensing. These states include AR, CA, CT, FL, HI, ID, IL, IN, KS, KY, LA, MS, MT, NV, NH, NJ, NY, NC, OH, OK, OR, TX, TN, UT, WV, and WI. A number of states introduced legislation in 2006 that would initiate or amend individual loan officer licensing legislation in the coming year.

Additionally, states are adding particularly onerous requirements to existing licensing requirements, such as requiring a mortgage company to have an employee physically in

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