

BEFORE THE ARKANSAS SECURITIES COMMISSIONER

**IN THE MATTER OF
ARKANSAS FAIR MORTGAGE
LENDING ACT, ARK CODE ANN.
§§ 23-39-517(a) through (c),
and §§ 23-39-518(a) through (e)**

ORDER NO. C-08-068-08-OR01

**ORDER PRESCRIBING REGISTRATION
MODIFICATIONS NECESSARY FOR TRANSITION
TO THE NATIONWIDE MORTGAGE LICENSING SYSTEM**

This Order is entered for the purpose of prescribing registration modifications necessary for transition to the Nationwide Mortgage Licensing System (“NMLS”) pursuant to the authority granted to the Arkansas Securities Commissioner (“Commissioner”) by Act 748 of 2007, codified at Ark. Code Ann. §§ 23-39-518(a) through (e). In accordance with the referenced sections, the Commissioner hereby finds, concludes, and orders, that:

FINDINGS OF FACT

1. Act 748 of 2007 authorizes the Commissioner to enter into an agreement whereby all persons making application for a license or renewing a license in Arkansas under the Fair Mortgage Lending Act (“FMLA”) Ark. Code Ann. §§ 23-39-501 through 23-39-518, will do so through the NMLS, an automated licensing system that allows state-licensed mortgage brokers, mortgage bankers, mortgage servicers, or loan officers to apply for, amend, update, or renew a license online for all participating state agencies using a single set of uniform applications.
2. The Commissioner has exercised the authority granted by Act 748 of 2007, and entered into an agreement with the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators to participate in the uniform licensing initiative, known as the NMLS. The Arkansas Securities Department (“ASD”) will transition to the NMLS system effective November 1, 2008.

3. Act 748 of 2007 further authorized the Commissioner to waive or modify certain requirements of the FMLA by rule or order that are necessary to implement a transition to the NMLS. Ark. Code Ann. § 23-29-518(a)(2). Likewise, Act 748 of 2007 authorized the Commissioner to establish new requirements to facilitate the transition to the NMLS. Ark. Code Ann. § 23-39-518(a)(3). This Order is entered for those purposes.

4. The Commissioner has identified certain licensing requirements contained within the FMLA that must be modified or waived to effectuate a smooth transition for Arkansas licensees to the NMLS. The identified modifications should become effective during the transition period, which begins on November 1, 2008, and ends on December 31, 2008. The modifications should remain in full force and effect until amended or modified by statute, rule or order. It has been determined that the following modifications are necessary to implement a transition to the NMLS in a timely manner:

(a) Submission of Initial Applications for Licensure, Annual Renewal Applications, Fees, and Related Filings to the NMLS.

Currently, the FMLA requires that any person desiring to obtain a license as a loan officer, mortgage broker, mortgage banker or mortgage servicer make written application to the Commissioner in the form prescribed by the Commissioner. Ark. Code Ann. § 23-39-505(a)(1). Among other requirements, the application must be accompanied by a filing fee of seven hundred fifty dollars (\$750) for licensure as a mortgage broker, mortgage banker, or mortgage servicer, or fifty dollars (\$50.00) for licensure as a loan officer. Ark. Code Ann. § 23-39-505(e). Similarly, a mortgage broker, mortgage banker, or mortgage servicer desiring to renew a license must file a renewal application with the Commissioner in the form prescribed by the Commissioner within a specified time frame. Ark. Code Ann. § 23-39-506(a)(1)(A). Among other requirements, the renewal

application must be accompanied by an annual renewal fee of three hundred fifty dollars (\$350) for the licensee's principal office and one hundred dollars (\$100) for each of the licensee's branch offices. The present FMLA Form 001 requires the applicant to designate its license type or license types, those being "mortgage broker", "mortgage banker", "mortgage servicer", or any combination thereof. Designation of the license type or license types is achieved by checking the appropriate box or boxes. Loan officers must also file renewal applications with the Commissioner on a form prescribed by the Commissioner, accompanied with an annual renewal fee of fifty dollars (\$50.00). Ark. Code Ann. §§ 23-39-506(c)(1) and (c)(3). The Commissioner has entered into an arrangement whereby all initial and renewal registration filings will be made directly through the NMLS, pursuant to authority granted by Act 748 of 2007, codified at Ark. Code Ann. § 23-39-518, (a)(1) and (c)(1). For this reason, it is necessary to modify the FMLA registration requirements to require that all filings and fees, except those specifically noted herein, be filed through NMLS, effective November 1, 2008. At that time, all filings, except those filings that contain an instruction to send directly to the ASD, must be transmitted electronically to the NMLS. Likewise, all fees, except late fees, must be transmitted electronically to the NMLS. Any late fees assessed should continue to be tendered directly to the ASD. An applicant or licensee will be required to designate its license type or license types through the NMLS form. The NMLS form will permit applicants or licensees desiring to apply for or renew more than one license as a mortgage broker, mortgage banker, or mortgage servicer, to designate each license type within a combination filing.

(b) Mortgage Broker, Mortgage Banker, and Mortgage Servicer Renewal Applications Due Dates.

Currently, a mortgage broker, mortgage banker, or mortgage servicer desiring to renew a license in Arkansas must file a renewal application with the Commissioner within one hundred and twenty (120) days after the end of the licensee's fiscal year. Ark. Code Ann. § 23-39-506(a)(1)(A). Act 748 of 2007 established a uniform expiration date of December 31, for all FMLA licenses issued in Arkansas, effective January 1, 2008. Ark. Code Ann. § 23-39-517(a). In light of the language regarding license expiration dates contained within Act 748 of 2007, and the Commissioner's agreement to participate in the uniform licensing initiative of the NMLS, all mortgage brokers, mortgage bankers, or mortgage servicers wishing to renew a license in Arkansas should file an application with the NMLS between November 1, 2008, and December 31, 2008.

(c) Mortgage Banker and Mortgage Servicer Audited Financial Statements.

Currently, all mortgage bankers and mortgage servicers must submit an audited financial statement prepared in accordance with Ark. Code Ann. § 23-39-505(g)(1)(A) through (g)(1)(D) at the time a renewal application is submitted. During the transition period, audited financial statements should be submitted directly to the ASD or through the NMLS. The audited financial statements should be submitted within ninety (90) days of the end of the mortgage banker's or mortgage servicer's fiscal year. For most mortgage bankers and mortgage servicers, audited financial statements will no longer be submitted at the time of license renewal, as the due date for the audited financial statements will fall outside the renewal time period.

(d) Mortgage Broker Financial Statements.

Currently, a mortgage broker must submit a financial statement with its renewal application, which is filed with the Commissioner within one hundred and twenty (120) days after the end of the licensee's fiscal year in accordance with Ark. Code Ann. § 23-

39-506(a)(1)(C). During the transition period, mortgage broker financial statements should be submitted directly to the ASD or through the NMLS. The financial statements should be submitted within ninety (90) days of the end of the mortgage broker's fiscal year. For most mortgage brokers, the financial statements will no longer be submitted at the time of renewal, as the due date for the financial statements will fall outside the renewal time period.

(e) Mortgage Broker, Mortgage Banker, and Mortgage Servicer Renewal Applications Late Fees.

Currently, a renewal application for mortgage broker, mortgage banker, or mortgage servicer that is not filed within one hundred and twenty (120) days of the end of the licensee's fiscal year is subject to a late fee of twenty-five dollars (\$25.00) for each day, up to a maximum of sixty (60) days, that the application is late. Ark. Code Ann. § 23-39-506(b). During the transition period, mortgage broker, mortgage banker, or mortgage servicer licenses should be considered expired if not filed by December 31, 2008.

Renewal applications submitted between January 1, 2009, and February 28, 2009, should be subject to a late fee of twenty-five dollars (\$25.00) for each day that the renewal application is late, up to a maximum of sixty (60) days. Mortgage broker, mortgage banker, or mortgage servicer licenses for which no renewal application has been submitted by February 28, 2009, should be deemed abandoned and surrendered, pursuant to Ark. Code Ann. § 23-39-506(e)(2)(A).

(f) Loan Officer Renewal Applications.

Currently, each loan officer wishing to renew a license shall file a renewal application with the Commissioner no later than sixty (60) days prior to the expiration date of the license. Pursuant to Ark. Code Ann. § 23-39-517(a), all Arkansas loan officer licenses

will expire on December 31, 2008. During the transition period, all loan officer renewal applications should be filed with the NMLS between November 1, 2008, and December 31, 2008.

(g) Loan Officer Renewal Applications Late Fees.

Currently, the failure of a loan officer to file a renewal application within sixty days prior to the expiration date of a loan officer license will subject the loan officer to a late fee of fifty dollars (\$50.00). During the transition period, the failure of a loan officer to file a renewal application between November 1, 2008, and December 31, 2008, should subject the loan officer to a late fee of fifty dollars (\$50.00). The late fee should be applicable to loan officer renewal applications submitted between January 1, 2009, and February 28, 2009. Loan officer licenses for which no renewal application has been submitted by February 28, 2009, should be deemed abandoned and surrendered, pursuant to Ark. Code Ann. § 23-39-506(e)(2)(A).

CONCLUSIONS OF LAW

5. The Commissioner may enter into an arrangement, agreement, or other working relationship with federal, state, or self-regulatory authorities, the Conference of State Bank Supervisors, or a subsidiary of the Conference of State Bank Supervisors to file and maintain documents in a multistate automated licensing system or other central depository system. Ark. Code Ann. 23-39-518(a)(1).

6. The Commissioner may waive or modify, in whole or in part, by rule or by order, any requirement of the FMLA if necessary to implement the Commissioner's arrangement to participate in the multistate automated licensing system or other central depository system. Ark. Code Ann. 23-39-518(a)(2).

7. The Commissioner may establish new requirements under the FMLA to carry out the Commissioner's arrangement to participate in the multistate automated licensing system or other central depository system. Ark. Code Ann. 23-39-518(a)(3).

ORDER

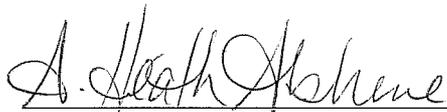
8. Pursuant to the authority granted to the Commissioner by Act 748 of 2007, the Commissioner hereby orders the following registration modifications applicable to all Arkansas FMLA licensees to become effective during the period of transition to the NMLS, beginning on November 1, 2008 and ending on December 31, 2008. These registration modifications shall remain in full force and effect until such time as they are amended or modified by statute, rule, or order:

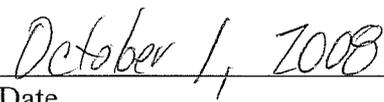
- (a) Except those filings and fees specifically noted in Paragraph 4 hereinabove, all applications for initial licensure in Arkansas as mortgage brokers, mortgage bankers, mortgage servicers, or loan officers, renewal applications, and related filings, shall be submitted directly through the NMLS effective November 1, 2008.
- (b) Mortgage bankers and mortgage servicers must file audited financial statements directly with the ASD or through the NMLS within ninety (90) days of the end of the mortgage banker's or mortgage servicer's fiscal year.
- (c) Mortgage brokers must file a financial statement directly with the ASD or through the NMLS within ninety (90) days of the end of the mortgage broker's fiscal year.
- (d) During the transition period, mortgage broker, mortgage banker, or mortgage servicer renewal applications shall be filed between November 1, 2008, and December 31, 2008. Mortgage broker, mortgage banker, or mortgage servicer licenses for which no renewal application has been submitted by December 31, 2008, shall be considered expired. Mortgage broker, mortgage banker, or mortgage servicer license renewal

applications submitted between January 1, 2008 and February 28, 2009, shall be subject to a late fee of twenty-five dollars (\$25.00) for each day that the renewal application is late, up to a maximum of sixty (60) days. Mortgage broker, mortgage banker, or mortgage servicer licenses for which no renewal application has been submitted by February 28, 2009, shall be deemed abandoned and surrendered.

(e) During the transition period, all loan officer renewal applications shall be filed between November 1, 2008, and December 31, 2008. All loan officer licenses for which no renewal application is submitted by December 31, 2008, shall be considered expired. Loan officer renewal applications submitted between January 1, 2009, and February 28, 2009, shall be subject to a late fee of fifty dollars (\$50.00). All loan officer licenses for which no renewal application has been submitted by February 28, 2009, shall be deemed abandoned and surrendered.

IT IS SO ORDERED.



A. Heath Abshure


Date