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## ARKANSAS SECURITIES DEPARTMENT

Writer's Direct Line: (501) 324-8671  
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August 11, 2000

Todd L. Griffin  
Attorney at Law  
2311 Biscayne Drive, Suite 300  
Little Rock, Arkansas 72227

RE: Attorney exemption from registration pursuant to Ark.  
Code Ann. § 23-42-306(a)(2)

No-Action No. 00-006

Dear Mr. Griffin:

Your letter of August 3, 2000, has been referred to me for review and comment. You ask whether the exemption from the registration, bond and net worth requirements of the Mortgage Loan Company and Loan Broker Act, Ark. Code Ann. § 23-39-101 et seq., provided at Ark. Code Ann. § 23-42-306(a)(2), applies to the factual situation presented in your letter. That provision exempts "[a]n attorney at law rendering services in the performance of his duties as an attorney at law."

You indicate that you would like to broker mortgage loans. You state you have a friend at a mortgage loan company who wants a place to send the company's "non-conforming" loans. You are willing to handle those loans and have investors who would be able to "handle those non-conforming" loans.

The exemption provided at Ark. Code Ann. § 23-39-306(a)(2) applies to those mortgage loan or loan broker transactions which are incidental to services rendered by an attorney in the performance of her/his duties as an attorney at law. As you describe the transactions contemplated, the mortgage loan or loan broker activity would not be incidental to services you are rendering to a client, but a separate business endeavor engaged by you.

Mr. Todd L. Griffin  
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Your letter is unclear as to the involvement of "investors" in the mortgage loan activity contemplated. Please be advised that in certain situations involving mortgage loans, such as fractionalized interests sold on mortgage loans, securities' sales under the provisions of Arkansas Securities Act, Ark. Code Ann. § 23-42-101 *et seq*, may be involved. In those situations, registration of the security and the seller under the Arkansas Securities Act may be required.

The following website offers forms for registering as a mortgage loan company or loan broker in Arkansas:  
<http://www.state.ar.us/arsec/forms.htm>. Should you have any further questions regarding this matter, please contact me at my direct line listed above or Charles F. Handley, Assistant Commissioner at: 324-8677.

Sincerely,



Bruce H. Bokony  
CHIEF COUNSEL