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**STATE OF OKLAHOMA
DEPARTMENT OF CONSUMER CREDIT**

April 15, 2014

**Re: Official declaratory ruling
Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act, 59 O.S. §§
2095-2095.24
Mortgage lender licensing**

The question has arisen as to what entities are required to obtain and maintain a mortgage lender license in accordance with the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act (the Act). An entity, unless specifically exempted from the Act as provided in 59 O.S. § 2095.3, shall not engage in the business of a mortgage lender with respect to any dwelling located in this state without first obtaining and maintaining annually a license under the Act. 59 O.S. § 2095.5(A)(1).

A mortgage lender is defined by the Act as:

An entity that takes an application for a residential mortgage loan, makes a residential mortgage loan or services a residential mortgage loan and is an approved or authorized: mortgagee with direct endorsement underwriting authority granted by the United States Department of Housing and Urban Development, seller or servicer of the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, or issuer for the Government National Mortgage Association.

59 O.S. § 2095.2(13).

An entity is a corporation, company, limited liability company, partnership or association. 59 O.S. § 2095.2(7). A residential mortgage loan is defined by the Act as:

Any loan primarily for personal, family or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling as defined in Section 103(v) of the Truth in Lending Act or residential real estate upon which is constructed or intended to be constructed such a dwelling.

59 O.S. § 2095.2(19).

Depository institutions and subsidiaries owned and controlled by a depository institution and regulated by a federal banking agency are exempt from the Act. An institution regulated by the Farm Credit Administration is also exempt from the Act. 59 O.S. § 2095.3(5).

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An entity that takes an application for a residential mortgage loan, makes a residential mortgage loan or services a residential mortgage loan *and (emphasis added)* is an approved or authorized mortgagee with direct endorsement underwriting authority granted by the United States Department of Housing and Urban Development, seller or servicer of the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, or issuer for the Government National Mortgage Association *is required (emphasis added)* to obtain and maintain a mortgage lender license under the Act. An entity that takes an application for a residential mortgage loan, makes a residential mortgage loan or services a residential mortgage loan *but is not (emphasis added)* an approved or authorized mortgagee with direct endorsement underwriting authority granted by the United States Department of Housing and Urban Development, seller or servicer of the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, or issuer for the Government National Mortgage Association *is not required (emphasis added)* to obtain and maintain a mortgage lender license.

An entity that takes an application for a residential mortgage loan, makes a residential mortgage loan or services a residential mortgage loan but is not an approved or authorized mortgagee with direct endorsement underwriting authority granted by the United States Department of Housing and Urban Development, seller or servicer of the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, or issuer for the Government National Mortgage Association *may (emphasis added)* nonetheless obtain and maintain a mortgage lender license by satisfying the requirements of 59 O.S. 2095.11.1., which includes, but is not limited to, obtaining a bond in the amount of One Hundred Thousand Dollars (\$100,000.00) and maintaining a minimum net worth of at least Twenty-Five Thousand Dollars (\$25,000.00). Mortgage lender license applicants must also submit payment of applicable license fees.

Examples

Example one

ABC Mortgage Company takes applications for residential mortgage loans, makes residential mortgage loans and is an approved seller for the Federal Home Loan Mortgage Corporation. ABC Mortgage Company is required to obtain and maintain a mortgage lender license.

Example two

ABC Mortgage Company services residential mortgage loans and is an approved servicer of the Federal National Mortgage Association. ABC Mortgage Company is required to obtain and maintain a mortgage lender license.

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Example three

ABC Mortgage Company takes applications for residential mortgage loans and makes residential mortgage loans but is not an approved or authorized mortgagee with direct endorsement underwriting authority granted by the United States Department of Housing and Urban Development, seller or servicer of the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, or an issuer for the Government National Mortgage Association. ABC Mortgage Company is not required to obtain and maintain a mortgage lender license. However, ABC Mortgage Company may elect to obtain and maintain a mortgage lender license by satisfying the requirements of 59 O.S. § 2095.11.1 and paying the applicable license fees.



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