

## WHAT ACTIVITIES REQUIRE LICENSING OR INDIVIDUAL REGISTRATION IN IOWA?

### LENDING / SERVICING

Lending authority is required: 1) to make or service at least four mortgage loans in a calendar year that are secured by a lien on owner occupied residential real property located in Iowa [535B.1(4)]; or 2) to make or service a supervised loan [537.2301(2)].

A supervised loan [537.1301(43)] is a consumer loan [537.1301(14)] in which the rate of finance charge exceeds two points above the monthly average ten-year constant maturity interest rate of U.S. government notes and bonds [535.2(3)]. In general, a consumer loan is a loan made to a person (not an organization) in which the amount financed is \$25,000 or less; that is incurred primarily for a personal, family, or household purpose.

Iowa Code §535B.4 prohibits a person from using the title "mortgage banker" without first obtaining a license.

### BROKERING

A person who arranges or negotiates, or attempts to arrange or negotiate, at least four mortgage loans or commitments for four or more such loans secured by a lien on owner-occupied residential real property located in this state in a calendar year must obtain a license.

Iowa Code §535B.4 prohibits a person from using the title "mortgage banker" or "mortgage broker" without first obtaining a license.

### INDIVIDUAL REGISTRATION

A natural person (human being) who arranges or negotiates, or attempts to arrange or negotiate, a loan secured by an owner-occupied 1 to 2 family dwelling located in Iowa and who is employed by, under contract with, or an agent of a mortgage banker or mortgage broker licensee must register annually with the administrator. A person whose job responsibilities are to process mortgage loans, are solely clerical in nature, or otherwise do not involve direct contact with loan applicants does not need to register.

### WHAT DOES "ARRANGES OR NEGOTIATES" MEAN?

A person "arranges or negotiates" a loan if that person does any of the following in conjunction with an application for a mortgage loan: 1) obtains information from a consumer that would or could be used for underwriting purposes (In most cases, if the consumer's social security number and secured property address are not provided, the information would not be considered sufficient for underwriting purposes.); 2) assists the consumer in completing an application; 3) counsels the consumer regarding an application; or 4) is the primary contact between the consumer and the lender or broker (i.e., the consumer communicates through the person rather than directly with the lender).

## INDIVIDUAL REGISTRATION

Effective July 1, 2006, an individual who arranges or negotiates a mortgage loan is required to register annually with the Iowa Division of Banking. Those individuals are also required to complete 12 hours of continuing education before their registration is renewed.

**WHO IS REQUIRED TO REGISTER?** A natural person (human being) who arranges or negotiates a loan secured by an owner-occupied 1 to 2 family dwelling and who is employed by, under contract with, or an agent of a mortgage banker or mortgage broker licensee must register.

**WHAT DOES “ARRANGES OR NEGOTIATES” MEAN?** A person “arranges or negotiates” a loan if that person does any of the following in conjunction with an application for a mortgage loan: 1) obtains information from a consumer that would or could be used for underwriting purposes (In most cases, if the consumer’s social security number and secured property address are not provided, the information would not be considered sufficient for underwriting purposes.); 2) assists the consumer in completing an application; 3) counsels the consumer regarding an application; or 4) is the primary contact between the consumer and the lender or broker (i.e., the consumer communicates through the person rather than directly with the lender).

**WHO DOES NOT NEED TO REGISTER?** A person whose job responsibilities on behalf of a licensee or individual registrant are to process mortgage loans, are solely clerical in nature, or otherwise do not involve direct contact with loan applicants. A person who has direct contact with a loan applicant regarding his/her application must be registered.

**WHAT ABOUT TELEMARKETERS?** Telemarketers (not registered pursuant to 535B.4A) could talk to a potential applicant up to the point that the potential applicant advises he wants to apply for a loan. Once the person indicates they want to apply for a loan, the telemarketer would need to refer the applicant to someone who is registered.

**WHAT ABOUT PROCESSORS?** A processor of a mortgage loan application does not need to register if that person does not have direct contact with the loan applicant. If the processor does have direct contact with the loan applicant, the processor would need to be registered.

**WHAT ARE THE CONTINUING EDUCATION REQUIREMENTS?** Individual registrants must complete twelve hours of continuing education each year prior to the renewal of their registration. The continuing education curriculum or program must be approved by IDOB. The continuing education year runs from November 1 to October 31<sup>st</sup> for a registration subject to renewal December 1. For example, registration renewals are due December 1, 2009, and individual registrants need to have completed their twelve hours of continuing education between November 1, 2008, and October 31, 2009.

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# INDIVIDUAL REGISTRANT – NUMBER EXEMPTION

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MAY AN INDIVIDUAL DO THREE LOANS BEFORE THAT INDIVIDUAL IS REQUIRED TO REGISTER PURSUANT TO 535B.4A? **NO**

WHAT DETERMINES IF AN INDIVIDUAL MUST REGISTER?

**1) If the person (generally a company) does not need to be licensed, the individual does not need to register.** For example, a company located in Colorado anticipates it will do no more than three loans in a calendar year secured by residential real estate located in Iowa. It does not advertise that it is a “mortgage banker” or “mortgage broker” in Iowa or indicate to the borrower that they are a “mortgage banker” or “mortgage broker” in Iowa. The company does not need to be licensed and its employees do not need to register.

**2) If the company does need to be licensed, the individual does need to register.** For example, company XYZ Mortgage has obtained a Mortgage Broker license in Iowa. All originators with XYZ Mortgage that will be doing business in Iowa need to be registered. Even if an individual does only 1 loan, that person needs to register.

**3) If a company applies for a mortgage banker/broker license, its originators will need to apply for individual registration.** For example, a company located in Colorado anticipates it will do no more than three loans secured by residential real estate located in Iowa. It did not advertise that it was a “mortgage banker” or “mortgage broker” in Iowa or indicate to the borrower that they were a “mortgage banker” or “mortgage broker” in Iowa. While the company is not required to obtain a mortgage broker license, the ultimate lender says it will do business only with licensed companies. Therefore, the company applies for a license in Iowa. The company’s originators (at least those who will be contacting the applicant) need to register. Iowa Code Section 535B.4A(3) indicates a person (the company in this case) is not eligible for licensing pursuant to section 535B.4 unless all originators have registered.

**4) Also remember a person or individual can not use the title “mortgage banker” or “mortgage broker” in Iowa without being licensed or registered.**

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