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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

MEMORANDUM

TO: Debbie Morgan
Department of Commerce Community and Economic Development

FROM: April Simpson, Office of the Lieutenant Governor 
465.4081

DATE: January 7, 2020

RE: Filed Permanent Regulations: Department of Commerce Community and Economic Development

Department of Commerce, Community and Economic Development regulation re: mortgage lending licenses, and bona fide exempt organizations (3 AAC 14.020; 3 AAC 14.055; 3 AAC 14.058 - 3 AAC 14.072; 3 AAC 14.330; 3 AAC 14.420 - 3 AAC 14.525; 3 AAC 14.990)

| | |
|------------------------|-----------------|
| Attorney General File: | 2019200709 |
| Regulation Filed: | 1/7/2020 |
| Effective Date: | 2/6/2020 |
| Print: | 233, April 2020 |

cc with enclosures: Harry Hale, Department of Law
Judy Herndon, LexisNexis

ORDER ADOPTING CHANGES TO REGULATIONS
OF THE DEPARTMENT OF COMMERCE, COMMUNITY
AND ECONOMIC DEVELOPMENT
DIVISION OF BANKING AND SECURITIES

Appendix J

The attached 11 pages of regulations, dealing with mortgage lending (nonprofit exemption) 3 AAC 14 are adopted and certified to be a correct copy of the regulation changes that the Division of Banking and Securities adopts under the authority of AS 06.60.015, AS 06.60.016, AS 06.60.910 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

Although no public comments were received, the Division of Banking and Securities paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes adopted under this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

Date: January 2, 2020

Patrice Walsh
Patrice Walsh, Director
Division of Banking and Securities

April Simpson for

FILING CERTIFICATION

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on

January 7, 2020, at 2:59pm., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

for April Simpson
Kevin Meyer
Lieutenant Governor

Effective: February 6, 2020.

Register: 233, April 2020.

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

I, KEVIN MEYER, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA, designate the following state employees to perform the Administrative Procedures Act filing functions of the Office of the Lieutenant Governor:

**Josh Applebee, Chief of Staff
Kady Levale, Notary Administrator
April Simpson, Regulations and Initiatives Specialist**

IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Juneau, on December 11th, 2018.



Kevin Meyer

**KEVIN MEYER
LIEUTENANT GOVERNOR**

3 AAC 14.020(b) is amended to read:

(b) **An individual covered under AS 06.60.015(b) is** [THE FOLLOWING ARE] exempt from the licensing requirements of this section [:

- (1) AN INDIVIDUAL COVERED UNDER AS 06.60.015(b); AND
- (2) AN EMPLOYEE OF A GOVERNMENT AGENCY UNDER AS 06.60.015(a)(4) WHO ACTS AS A MORTGAGE LOAN ORIGINATOR ONLY UNDER THE EMPLOYEE'S OFFICIAL DUTIES FOR THAT AGENCY].

3 AAC 14.020 is amended by adding a new subsection to read:

(c) A bona fide nonprofit organization referenced in AS 06.60.015(a)(5) and (c) may submit an application for an exemption registration to the department through the registry to determine if the organization qualifies for an exemption. In addition to the information required under AS 06.60.015(c), an application for an exemption must contain

- (1) a complete Form MU1;
- (2) a current business license issued under AS 43.70;
- (3) documentation of the status of a tax-exempt organization under 26 U.S.C. 501(c)(3) (Internal Revenue Code);
- (4) complete and current articles of incorporation and bylaws, and a certificate of good standing issued by the domestic state; and if the corporation is not organized in this state, a copy of the corporation's certificate of authority to transact business in this state;
- (5) policies and procedures detailing how the organization ensures that the organization and the organization's mortgage loan originators meet the requirements of

AS 06.60.330;

(6) a list of other trade names if the organization is operating under a name that is different from the organization's legal name;

(7) details of each mortgage loan program that is available to consumers; the details of each program must include the interest rate, terms, underwriting guidelines, flyers, websites where the program is advertised, and funding source;

(8) a list of mortgage loan originators that are currently under contract with the organization; for each mortgage loan originator who is currently under contract with the organization, the organization shall provide

(A) a list of the originator's training and education;

(B) the date of the originator's most recent criminal history background check and independent credit report; and

(C) details of the originator's compensation plan;

(9) documentation or an explanation of affordable housing promotion or homeownership education;

(10) organization and management charts;

(11) a business plan related to mortgage origination activities;

(12) a list of any consumer complaints received, resolution of those complaints, and management response; and

(13) any other information that the department reasonably requires with respect to the organization. (Eff. 7/1/2008, Register 186; am 12/4/2010, Register 196; am 1/1/2017, Register 220; am 2 / 6 / 2020, Register 233)

Authority: AS 06.60.010

AS 06.60.015

AS 06.60.910

AS 06.60.012

3 AAC 14.055 is repealed and readopted to read:

3 AAC 14.055. Application for mortgage license. To apply for a mortgage license under AS 06.60.020, a person must submit to the department through the registry

- (1) a complete Form MU1;
- (2) a complete Form MU2 for a control person and branch manager of the applicant;
- (3) a financial statement in compliance with 3 AAC 14.054;
- (4) the designation of a registered agent under 3 AAC 14.057;
- (5) if the registry accepts fingerprints for the purpose of conducting a criminal history background check of a mortgage license applicant, consent to a federal criminal history record check and a complete set of fingerprints in a form acceptable to the registry for the applicant and each control person of the applicant;
- (6) a copy of the applicant's current business license issued under AS 43.70;
- (7) for an applicant that is a business entity,
 - (A) documentation of the business organization and authorization under 3 AAC 14.056; and
 - (B) a copy of the current filing, with the department division overseeing corporations, that designates the registered agent in the state;
- (8) a copy of the certificate of business name registration, issued by the

department division overseeing corporations, for each other trade name used by the applicant as described in 3 AAC 14.059;

(9) two complete sets of fingerprints in a form acceptable to the Department of Public Safety for the applicant and a control person of the applicant, if the registry does not accept fingerprints for a mortgage license applicant;

(10) authorization under AS 06.60.027(a)(2) for the registry and the department to obtain for the applicant and a control person of the applicant

(A) an independent credit report from a consumer reporting agency; and

(B) information related to administrative, civil, or criminal findings by a governmental jurisdiction;

(11) if the answer to any of the disclosure questions on the Form MU1 or Form MU2 is "yes," complete details in writing of each event or proceeding, including as applicable, the name and location of the court, the docket or case number, and the status and summary of the event or proceeding, and a copy of an applicable charge, order, or consent agreement; and

(12) other information, documentation, and payments as allowed by AS 06.60 and required by the department. (Eff. 7/1/2008, Register 186; am 7/24/2009, Register 191; am 12/4/2010, Register 196; am 2 / 6 / 2020, Register 233)

Authority: AS 06.60.020 AS 06.60.035 AS 06.60.910
AS 06.60.027 AS 06.60.060

3 AAC 14.058 is repealed:

3 AAC 14.058. Qualifying individual for mortgage licensee. Repealed. (Eff.

12/4/2010, Register 196; repealed 2 / 6 / 2020, Register 233)

3 AAC 14.059(c) is amended to read:

(c) At the time of filing the Form MU1, and for each other trade name filed on the Form MU1, an applicant for a mortgage license must submit to the department through the registry a copy of the certificate of business name registration issued [FILED WITH AND STAMPED "RECEIVED"] by the department division overseeing corporations. (Eff. 12/4/2010, Register 196; am 2 / 6 / 2020, Register 233)

Authority: AS 06.60.020 AS 06.60.910

3 AAC 14.060(6) is amended to read:

(6) to the registry proof that the applicant has completed the approved prelicensing education required under AS 06.60.038; however, prelicensing education expires, and the applicant must complete an additional 20 hours of approved prelicensing education in order to be eligible under AS 06.60 for a state mortgage loan originator license, if the applicant

(A) fails to acquire a valid state license or federal registration as a mortgage loan originator within three years from the date of completion of any approved prelicensing education course; or

(B) fails to acquire a valid state license or federal registration as a mortgage loan originator within three years from the last date of licensure or registration as a mortgage loan originator;

Register 233, April 2020

COMMERCE, COMMUNITY, AND EC. DEV.

(Eff. 7/1/2008, Register 186; am 7/24/2009, Register 191; am 12/4/2010, Register 196; am

2 / 6 / 2020, Register 233)

Authority: AS 06.60.020 AS 06.60.035 AS 06.60.910

AS 06.60.027 AS 06.60.040

3 AAC 14.072 is amended by adding a new subsection to read:

(e) The nonrefundable fee for an annual bona fide nonprofit exemption registration under AS 06.60.015(e) is \$400. The organization shall pay the fee to the department through the registry each year for the period that expires on December 31 after the date the registration is issued. An organization that chooses to apply for a bona fide nonprofit exemption registration shall apply annually on or after November 1 to ensure that the organization continues to comply with AS 06.60. The application must be received by the department through the registry on or before December 1. (Eff. 12/4/2010, Register 196; am 1/1/2017, Register 220; am 2 / 6 / 2020,

Register 233)

Authority: AS 06.60.010 AS 06.60.015 AS 06.60.910

AS 06.60.012 AS 06.60.035

3 AAC 14.330 is repealed and readopted to read:

3 AAC 14.330. Surrender of mortgage license and surrender of registration of exempt bona fide nonprofit organization. (a) The voluntary surrender of a mortgage license is not effective until the mortgage licensee has provided proof acceptable to the department that all loans of that mortgage licensee have either been paid in full or sold. The mortgage licensee shall

submit a surrender checklist to the department through the registry for approval by the department.

(b) The voluntary surrender of the registration of an exempt bona fide nonprofit organization is not effective until the organization has provided proof acceptable to the department that all loans of that organization have either been paid in full or sold. The organization shall submit a surrender checklist to the department through the registry for approval by the department.

(c) There is no fee to surrender. (Eff. 7/1/2008, Register 186; am 2 / 6 / 2020, Register 233)

Authority: AS 06.60.015 AS 06.60.097 AS 06.60.910
AS 06.60.080

The section heading of 3 AAC 14.420 is changed to read:

3 AAC 14.420. Records of mortgage licensee, registered exempt bona fide nonprofit organization, or registered depository institution.

The introductory language of 3 AAC 14.420(a) is amended to read:

(a) A mortgage licensee, a registered exempt bona fide nonprofit organization, or a registered depository institution shall maintain

...

3 AAC 14.420(a)(2)(A) is amended to read:

(A) the original contract with the customer for the mortgage licensee's, **the registered exempt bona fide nonprofit organization's**, or the registered depository institution's compensation;

3 AAC 14.420(a)(4)(B) is amended to read:

(B) correspondence sent or received by the mortgage licensee, **the registered exempt bona fide nonprofit organization**, or the registered depository institution relating to the loan application;

(Eff. 7/1/2008, Register 186; am 12/4/2010, Register 196; am 1/1/2017, Register 220; am 2 / 6 / 2020, Register 233)

Authority: **AS 06.60.015** AS 06.60.135 AS 06.60.910

The introductory language of 3 AAC 14.435 is amended to read:

3 AAC 14.435. Shared business location. A mortgage licensee, **a registered exempt bona fide nonprofit organization**, or a registered depository institution may share office space with another business if each business

...

(Eff. 7/1/2008, Register 186; am 12/4/2010, Register 196; am 1/1/2017, Register 220; am 2 / 6 / 2020, Register 233)

Authority: **AS 06.60.015** AS 06.60.110 AS 06.60.910

3 AAC 14.440 is amended to read:

3 AAC 14.440. Amendments to information on file with department within or

(7) AS 06.60.850 - 06.60.860 (duties and powers of the department). (Eff.

2 / 6 / 2020, Register 233)

Authority: AS 06.60.015 AS 06.60.910

3 AAC 14.525. Investigation and examination of an exempt bona fide nonprofit organization. The department shall investigate and examine the affairs, business, office, and records of an exempt bona fine nonprofit organization at intervals the department considers appropriate as necessary to carry out the purposes of this chapter. The department may conduct an examination without prior notice. Examination fees are to be charged to and paid by the organization in accordance with AS 06.01.010. The department may maintain an action for the recovery of the costs in any court of competent jurisdiction. Not later than 30 days after the department requests payment, the licensee shall pay the department the cost of examination in accordance with AS 06.01.010 and any expenses required for each representative of the department who is reasonably necessary to conduct the investigation or examination, including travel costs and per diem allowance that does not exceed the allowance for employees of the state under AS 39.20.110. (Eff. 2 / 6 / 2020, Register 233)

Authority: AS 06.60.015 AS 06.60.910

3 AAC 14.990(a)(8) is repealed:

(8) repealed 2 / 6 / 2020

3 AAC 14.990(b) is amended by adding a new paragraph to read:

(8) "registry" means the Nationwide Multistate Licensing System and Registry

(NMLS), previously known as the Nationwide Mortgage Licensing System and Registry, a licensing system owned and operated by the State Regulatory Registry, LLC, for the licensing and registration of persons in the mortgage and other financial services industries.

3 AAC 14.990 is amended by adding a new subsection to read:

(c) In AS 06.60.015(b)(4)(F)(i), "the loan does not have a payment schedule that results in negative amortization" means

(1) the loan is fully amortized and each payment includes principal and interest to fulfill the loan obligation without a balloon payment;

(2) during the term of the loan the outstanding principal balance decreases;

(3) the loan has equal monthly payments during the term of the loan except for the last payment; and

(4) the last payment of the loan is equal to or less than the monthly payment.

(Eff. 7/1/2008, Register 186; am 7/24/2009, Register 191; am 12/13/2009, Register 192; am 12/4/2010, Register 196; am 1/1/2017, Register 220; am 2 / 6 / 2020, Register 233)

Authority: AS 06.60.010 AS 06.60.016 AS 06.60.990

AS 06.60.015 AS 06.60.910