

IMPORTANT NOTICE

Please be advised that certain changes to the Alabama Consumer Credit Act and Mortgage Brokers Licensing Act may impact lenders (both mortgage lenders and non-mortgage lenders) and mortgage brokers operating in the State of Alabama. Lenders and mortgage brokers are strongly encouraged to review the recent amendments to both the Alabama Consumer Credit Act and Mortgage Brokers Licensing Act. Importantly, the requirements regarding licensure under both these Acts have changed.

Section 5-19-31 of the Alabama Consumer Credit Act was amended to remove the exemption as to licensing for “an approved mortgagee under the provisions of the National Housing Act”. As a result, the amendment removes what has been commonly referred to as the “HUD exemption” under Alabama law. This will require mortgage companies that operated under this exemption to obtain a license by November 21, 2009.

Additionally, Section 5-19-22 of the Consumer Credit Act was amended to remove the exception as to licensing for companies having no place of business in Alabama or a resident employee whose employment included making loans or taking assignments of consumer credit contracts. The Alabama Consumer Credit Act now requires that all creditors engaged in one or more of the following activities obtain a license from the State Banking Department:

1. Making consumer loans to Alabama residents, regardless of whether the creditor has a place of business in Alabama or employee residing in Alabama.
2. Making consumer loans originated by an individual required to be licensed as a mortgage loan originator under the Alabama S.A.F.E Mortgage Licensing Act.
3. Taking assignments of consumer credit contracts, either from a place of business in Alabama or through use of an employee residing in Alabama whose employment includes taking assignments of consumer credit contracts.

Similarly, Section 5-25-3 of the Mortgage Brokers Licensing Act was amended to remove the exemption as to licensing for “an approved mortgagee under the provisions of the National Housing Act”. As a result, the amendment removes what has been commonly referred to as the “HUD exemption” under Alabama law. This will require mortgage brokers that operated under this exemption to obtain a license by November 21, 2009.

The State Banking Department will also begin using the Nationwide Mortgage Licensing System (NMLS) on October 1, 2009. Starting October 1, 2009, the State Banking Department will require all companies and individuals that engage in mortgage lending and mortgage broker activities holding a license under the Alabama Consumer Credit Act or Mortgage Brokers Licensing Act to have a complete record in the NMLS and submit it to the State Banking

Department for approval by December 31, 2009. Companies and individuals currently licensed or that obtain a license prior to October 1, 2009 will be required to renew their licenses through the NMLS.

Any company or individual wishing to apply for a license under either Act must do so through NMLS starting October 1, 2009. Please be advised that the State Banking Department will stop accepting paper applications from mortgage lenders and mortgage brokers on August 15, 2009. This will allow the Department to process all applications filed under the existing application process prior to October 1, 2009. Original applications take some time to review and the State Banking Department strongly encourages companies previously not required to obtain a license to submit applications for licensure as early as possible.

Applications for licensure under the Alabama Consumer Credit Act and the Mortgage Brokers Licensing Act are available at the Department's website, www.banking.alabama.gov under "Forms and Applications – Bureau of Loans".

Companies that DO NOT engage in mortgage lending or mortgage broker activities will continue to file license applications through the existing paper application process.