

Pennsylvania Issues Mortgage Servicing Regulations, Requires Separate Licensure

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On Tuesday, February 6, 2018, the Pennsylvania Department of Banking and Securities (the “Department”) issued its [Mortgage Servicing Regulations](#) implementing [Act 81 of 2017](#) (PA Senate Bill 751), which was enacted in December 2017. These regulations effectively incorporate the Consumer Financial Protection Bureau’s mortgage servicer regulations, 12 C.F.R. §§ 1024.31 to 1024.41, and apply to any mortgage loan serviced by a licensed mortgage servicer.

Senate Bill 751 amended the Pennsylvania Mortgage Licensing Act, 7 Pa. C.S.A. §§ 6101 et seq., which now requires a “mortgage servicer” license to engage in the “mortgage loan business” – a term that specifically includes servicing mortgage loans. The Act defines “servicing a mortgage loan” as a collecting or remitting payment or the right to collect or remit payments of principal, interest, tax, insurance, or other payment under a mortgage loan. Further, a “mortgage servicer” is defined as a person who engages in the mortgage loan business by directly or indirectly servicing a mortgage loan. Finally, the Act and regulations define a mortgage loan to include a dwelling secured loan, not just a loan secured by real estate, making both the servicer licensing and substantive servicing requirements applicable to chattel-only manufactured home loans.

While the definitions of “servicing” and “servicer” do not expressly require a license for entities that only purchase and/or hold mortgage loans or the servicing rights to those mortgage loans, the definitions are drafted broadly to include “*indirectly* servicing” and “the *right* to collect or remit payments,” terms that may encompass passive holders of mortgage servicing rights. Unfortunately, the regulations do not provide any further guidance on the scope of the licensing requirement and only include substantive servicing requirements that will be imposed on licensed mortgage servicers.

We note that the Act contains certain limited exemptions. For example, licensed mortgage lenders may act as a mortgage servicer without a separate mortgage servicer license, but only with respect to mortgage loans the mortgage lender has originated, negotiated, and owns, *i.e.*, holds in portfolio. Further, mortgage loans made for business or commercial purposes are exempt.

License applications for Pennsylvania mortgage servicers will be available via the Nationwide Multistate Licensing System (NMLS) on April 1, 2018. The Department has noted that anyone engaging in the mortgage servicing business in Pennsylvania without applying for a license by June 30, 2018, will be considered unlicensed

and subject to enforcement action. To date, the NMLS Pennsylvania Mortgage Lender License Description and New Application Checklist have not yet been revised to include the new servicing requirements.

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