

STATE OF COLORADO

Division of Real Estate
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Department of Regulatory Agencies

Division of Real Estate

Position Statement

MLO 1.3 – Licensing Required

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Section 1. Scope and Purpose

The Director of the Division of Real Estate finds that a position statement regarding section 12-61-903(1)(c), C.R.S. is necessary to provide clarification to the mortgage industry. Section 12-61-903(1)(c), C.R.S. states that on or after January 1, 2008, unless licensed by the Director, a person shall not originate a mortgage, offer to originate a mortgage, act as a mortgage loan originator, or offer to act as a mortgage loan originator. Section 12-61-902(6)(a), C.R.S. defines a mortgage loan originator as an individual who takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan. Section 12-61-902(7), C.R.S. defines originate a mortgage to act directly or indirectly as a mortgage loan originator. After consulting with industry leaders, the Director has learned that uncertainty exists in the market place regarding who is required to be licensed and who is not required to be licensed. The purpose of this position statement is to provide further clarification regarding this matter.

Section 2. Applicability

This position statement concerns individuals who originate a mortgage, offer to originate a mortgage, act as a mortgage loan originator, or offer to act as a mortgage loan originator.

Section 3. Position Statement – MLO 1.3 – License Required

1. The Director's position regarding the above uncertainty is that persons who directly supervise individuals that take residential loan applications or offer or negotiate terms of a residential mortgage loan are required to be licensed.

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2. Additionally, the Director's position is that individuals who perform purely administrative or clerical tasks do not fall within the definitions of originate a mortgage or mortgage loan originator. Administrative or clerical tasks include, but are not limited to:
 - a. The receipt, collection, distribution and analysis of information common for the processing or underwriting of a residential mortgage loan; and
 - b. Communicating with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that such communication does not include offering or negotiating loan rates or terms, or counseling consumers about residential mortgage loan rates or terms.

Section 4. Issuance Date

The Director of the Division of Real Estate issues this position statement January 7, 2008.

The Division of Real Estate revised this position statement and re-issued this position statement on Friday, September 11, 2009.