

Licensure Required for Lead Generators in Connecticut

McGlinchey Consumer Financial Services Alert

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The Connecticut legislature recently enacted a law separately classifying, and requiring licensure for, lead generation activity relating to residential mortgage loans.

In Public Act No. 17-38, the Connecticut General Assembly amended the mortgage licensing law to separately classify and license lead generators. A "lead generator" is defined as a person who, for or with the expectation of compensation or gain: (A) sells, assigns, or otherwise transfers one or more leads for a residential mortgage loan; (B) generates or augments one or more leads for another person; or (C) directs a consumer to another person for a residential mortgage loan by performing marketing services, including, but not limited to, online marketing, direct response advertising, or telemarketing. A "lead," in turn, is defined to include any information identifying a potential consumer of a residential mortgage loan. A licensed lead generator will not be deemed to be acting as a mortgage lender, mortgage correspondent lender, mortgage broker, or mortgage loan originator if such person does not: (A) obtain compensation or gain contingent upon the consummation of a residential mortgage loan or the receipt of a residential mortgage loan application; or (B) utilize financial criteria particular to the consumer or the residential mortgage loan transaction to selectively place a lead or steer a consumer to a specific person for a residential mortgage loan.

The Connecticut lead generator license requirement reflects a determination that virtually any activity beyond the forwarding of a generic inquiry would require licensure as a mortgage lender or mortgage broker. The requirement in effect creates two tiers of entities commonly referred to as lead generators. In the first tier are lead generators who do little more than obtain basic information about consumers interested in a mortgage loan, and pass that information along to a number of lenders in exchange for a payment. These entities would be able to apply for a lead generator license and be regulated accordingly. The second tier, however, would include any lead generators that: (A) receive compensation based upon a completed application or a closed loan; (B) gather financial information specific to the consumer in order to better tailor the products offered; or (C) take any kind of active role in selecting the offers or lenders to whom the lead is forwarded. This second category of lead generators would not be eligible to use the lead generator license. Rather, that category may be required to obtain a mortgage lender or mortgage broker license.

These license requirements go into effect October 1, 2017. Lead generators and their clients should evaluate the new licensing requirement to determine how it may impact their businesses and vendor management programs.

Please contact the authors of this alert or another member of the firm's Consumer Financial Services Group for questions regarding the impact of Public Act No. 17-38 on your organization.