



State of Wisconsin
Department of Financial Institutions

Tony Evers, **Governor**

Kathy Blumenfeld, **Secretary**

August 6, 2021

TO: Wisconsin-Licensed Mortgage Loan Originators

RE: Updates to Remote Work Policy for Mortgage Loan Originators and Other Employees of Wisconsin-licensed Mortgage Bankers and Brokers

At the outset of the COVID-19 public health emergency, this Department's Division of Banking took temporary "no-action" enforcement positions concerning certain statutes in an effort to expand the availability of remote work options for mortgage loan originators and other employees of mortgage bankers and brokers licensed in this state. The division made those changes due to immediate threats to public health and individual safety and well-being.

Almost 17 months later, it is evident that the necessary adoption of pandemic-related safety measures has changed societal norms about work and where it typically occurs. Businesses and their employees adopted remote work technologies and practices on a mass scale in this pandemic, and people found ways to work effectively and efficiently from home. After our shared remote-work experience in this pandemic, the assumption that employees will spend all their workdays in a commercial business office is no longer reasonable.

For those reasons, the division has determined that it will not fully return to its pre-pandemic policies even after the pandemic subsides. The division must still enforce the applicable Wisconsin Statutes governing mortgage loan originators and other employees of mortgage bankers and brokers, of course, and it will still take to ensure that safe and sound practices are followed. But it will apply those statutes in a manner that facilitates remote work to a greater degree than before the pandemic, as described below.

1. Mortgage Loan Originators Working From Home

Section 224.73(5)(a) of the Wisconsin Statutes states as follows:

A mortgage loan originator shall be assigned to and work out of a licensed or registered office or branch office of the sponsoring mortgage banker, mortgage broker, or registered entity. This office shall either be the mortgage loan originator's residence or be within 100 miles of the mortgage loan originator's residence.

Prior to the pandemic, the division construed the phrase "work out of" to mean that the mortgage loan originator must *physically* work out of the licensed, registered, or branch office of the sponsoring party.

That interpretation was consistent with the notion of where "work" normally occurred in the pre-pandemic working world, but it is not consistent with post-pandemic reality. Millions of people

Division of Banking

Mail: PO Box 7876 Madison, WI 53707-7876

Courier: 4822 Madison Yards Way, Madison, WI 53705

Voice: (608) 261-7578 Fax: (608) 267-6889 Web: www.wdfi.org

have spent the pandemic still affiliated with their workplace offices but physically working from home, relying on videoconferencing software and other technology to effectively recreate the office experience in a virtual setting. As vaccinations have increased, many organizations (including this one) have introduced hybrid schedules for employees, where they work some days from home and some from the physical office building. Others are allowing certain types of employees to work from home full-time. What it means to “work out of” an office is different today than it was before our shared pandemic experience, and the division’s interpretation of that phrase should follow suit.

Therefore, going forward the division will construe Section 224.73(5)(a) to permit mortgage loan originators to work from home, without the need to license their homes as offices with the division, so long as the following requirements are met:

- **The mortgage loan originator must still be assigned to a licensed or registered office or branch office located within 100 miles of their residence.** While a mortgage loan originator may “work out of” a business office by virtual means, statutory law still requires that the office must be located within 100 miles of the mortgage loan originator’s residence. If the assigned office is farther away than the statute allows, then the mortgage loan originator must license their residence with the division as a branch office.

- **The mortgage loan originator, mortgage broker and mortgage banker must implement measures to ensure customer information is kept secure and private.** Protection of customers’ private information is paramount, regardless of whether work is performed from home or a business office. There must be measures in place to keep consumer data and personally identifying information confidential and protected from disclosure. Physical business records may not be kept at the residence. A virtual private network (VPN) must be used to connect to the office and the option to print documents accessible by VPN from home should be disabled. Mortgage loan originators must ensure that conversations with or about customers are private and out of earshot of other members of the household.

- **The mortgage loan originator cannot have meetings with customers inside the residence.** Mortgage loan originators may work out of an assigned office from home, but they cannot treat their home as if it were a commercial office open for public business. Unless their homes are licensed as offices with the division, they may not conduct in-person meetings with customers there.

- **The mortgage loan originator, mortgage broker and mortgage banker must maintain information for regulators on business-related activities occurring at the residence.** Working from home does not relieve mortgage loan originators of their obligations to provide timely and accurate information to regulators. The mortgage broker or mortgage banker must have measures in place to monitor business calls that occur at the residence, to maintain audio files of the calls, to maintain and safeguard electronic records created while working from home, and to monitor and oversee these processes and data security risks, and to provide this information to the division upon request. The mortgage broker or mortgage banker must maintain an up-to-date list of mortgage loan originators working from home and the address of the residence and provide the list to the division upon request. Regulatory oversight of mortgage loan originators remains the same regardless of whether they are working from home or an office building.

2. Other Employees of Mortgage Bankers and Brokers Working From Home

Other employees of mortgage bankers and mortgage brokers, such as individuals engaged solely as loan processors or underwriters, are exempt from licensure as mortgage loan originators (and thus exempt from the requirements of Section 224.73(5)(a) above). These exempt employees may do their work for mortgage loan originators, mortgage bankers, or mortgage brokers from home, without regard to the 100-mile limitation applicable to non-exempt mortgage loan originators. If they perform that work from a commercial business office, however, the office must be registered as a branch with the division.¹

3. Effective Date of Changes and Transition from the Current “No-Action” Positions

To allow time for licensees to plan and adjust to these new post-pandemic policies, the division will continue the “no-action” positions that have been in effect since the onset of the pandemic for the next 60 days. After that time, those affected by this guidance will be expected to be in compliance with it. Division staff are available to answer questions, and we may issue further clarification and guidance as we learn more from implementing this policy, from our conversations with other regulators in other jurisdiction, and from your feedback.

¹ See Wis. Stat. § 224.71(1c).