



Work from Home Model Statute and Regulations Frequently Asked Questions (FAQ)

Why are the MBA model bill and regulation necessary?

Due to the COVID-19 pandemic, many state regulators temporarily suspended their requirements for a mortgage loan originator to work from a licensed branch location or mandating how far their commutable distance is to a licensed location. These guidance documents and "no action" letters allowed the real estate finance industry, a vital engine of the American economy, to continue to function and serve consumers during this time of national crisis. MLOs and state-licensed companies in this health crisis proved that they can operate in a new paradigm where they can remotely serve consumers effectively while respecting all necessary federal and state consumer and data protection laws and rules. Making this licensing flexibility permanent is also necessary to ensure that the mortgage lending industry can continue to function in any future national emergency or during a natural disaster.

MBA and American Financial Services Association (AFSA) both have models. What's the difference? Which should a state use?

Both the MBA and ASFA models are similar in that they do not restrict work to a licensed location. In addition, both models look to the cloud-based loan origination systems, virtual private networks, automated compliance and quality control software to ensure that both consumer protections and lending requirements are met.

However, while the AFSA model generally permits an employee to work from home, the MBA model speaks to mortgage specific concerns and compliance with the National Multistate Licensing System (NMLS). Therefore, if a state regulator requires a model that effectively navigates their mortgage lending requirements, the MBA model should be the preferred choice. If the state regulator requires model language that must be applied to a multitude of license types outside of mortgage lending, then the ASFA model would work as an alternative solution.

Is a statutory and/or regulatory change in all states, DC and Puerto Rico?

No. Many states do not have requirements mandating a licensed mortgage loan originator (MLO) work from a licensed location.¹ But in states that do have these requirements, they are done differently, and the MBA model bill and rule would help the mortgage industry regulator and the state legislature to permit the necessary flexibility.

¹ www.mba.org/licensingflexibility

Do state policy makers – i.e. state mortgage industry regulators – support the MBA approach to modernize state licensing laws and regulations?

Some regulators have expressed interest in modernizing their licensing requirements and have already introduced proposed rules or suggested legislative changes to provide licensing flexibility.

Moreover, this effort has gained momentum recently because many state regulators have also been forced to pivot to a work-from-home environment during this national health emergency.

Why does the MBA model bill speak to “remote location” instead of a MLO’s “residence?” Isn’t this issue about letting MLOs work from home during the pandemic?

If there is one lesson of the pandemic, it is that there is no single situation that defines all MLOs’ work location needs. Moreover, MLOs licensed in multiple states may live where they must obey shelter in place orders while also licensed in a state that has rescinded such a mandate. This asymmetrical dynamic of reopening the economy may occur in multiple situations and could be further complicated by a future natural disaster. MBA believes that licensing laws and rules should be updated to recognize this challenge.

It is also important to recognize that the work of an MLO has changed dramatically in the last ten years. It is no longer specific to a location as the consumer makes the choice for how and when to apply for a mortgage. The modern digital mortgage environment provides consumers increased access to credit at a time and method of their choice. The mortgage business is no longer limited to the hours an MLO is in the office.

This effort is a recognition that commutable distance, work from a state-licensed location and brick and mortar branching requirements do not preserve this value, nor do they increase the access to credit. States that limit the distance one can drive to work do not increase access to credit for their citizens. Such policy only restricts the markets an originator can serve.

Companies today use new secure technologies to supervise their origination, processing, underwriting and closing teams whether they work in the same office, across town or in states that allow origination work from home offices. Companies have done this not because it was best in a work from home environment, but because it is the best way to supervise their workforce. Again, this is to preserve the validity and the value of the loan product being originated.

I can think of a number of ways this bill could be better from an industry perspective. Why isn’t it more effective?

MBA recognizes that changing state law and rules is a collaborative and deliberative process involving many stakeholders and perspectives, including the industry’s state and local partner associations. MBA’s model language is intended to serve as a starting point for this process that can be used easily by the many states that have these requirements.

How can regulators be sure consumer information and technology systems are secure when MLOs across the country are working in any number of environments?

The evolution of technology allows for more personalized customer service, faster response times, wider array of product options and wider delivery of credit without an expensive

network of brick and mortar locations. The model of larger main branch locations with smaller production offices to meet borrowers is no longer prevalent. Companies of all sizes now have remote employees and secure systems to access consumer data. The advancements in loan origination systems, third party asset verifications, quality control systems and real-time compliance make this the common model for today mortgage company. The MBA model recognizes and incorporates the need for secure access and consumer protections by incorporating much of the language and mandates state regulators have detailed in their temporary guidance documents.

MBA believes that the most efficient way to supervise origination activities is through the review of loans and their associated information. This evaluation is now done using secure systems at least once and often multiple times in the origination process. Companies today utilize quality control processes for origination whether the MLO is in company location, originating from their home, or visiting a borrower at another more convenient location.

Is effective mortgage supervision dependent on examiners being able to perform in-person visits?

State regulators' resources are limited. When a regulator does visit a physical branch, they often do so because an action triggered outside the branch. For example, there may an issue that was reported by a consumer or was the result of a review of loan records and requires an examiner to complete an on-site audit at a licensed location. The branch exam occurs post incident, and an increased use of digital supervision options could help preempt future issues.

Today, the Conference of State Bank Supervisors (CSBS) and state regulators are collaborating on a new State Examination System (SES) that would modernize the examination process and reduce the need for in-person examinations by allowing state regulators to more readily access information on licensees.

What about loan originators with less advanced technologies?

The MBA model does not require a state regulator remove branch locations as an option for licensees and there is no reason that physical branches cannot be continued with the adoption of remote work.

What about fees? (loss of licensing revenue)

MBA recognizes that a change in licensing laws may present budget challenges for regulatory agencies that depend on that revenue to cover operational costs. The industry is interested in discussing alternative approaches to ensuring regulators have appropriate resources to carry out their important mission.