

**COMMONWEALTH OF KENTUCKY
DEPARTMENT OF FINANCIAL INSTITUTIONS
ORDER OF THE COMMISSIONER**

WHEREAS, the Commissioner of the Department of Financial Institutions ("Department") is charged with the administration of Chapter 286.8 of the Kentucky Revised Statutes; and

WHEREAS, KRS 286.8-010(6) defines a "branch" or "branches" as "any location other than the mortgage loan company's or mortgage loan broker's principal location where the mortgage loan company, mortgage loan broker, or its employees maintain a physical presence for the purpose of conducting business in the mortgage lending process, including the servicing of mortgage loans;" and

WHEREAS, KRS 286.8-170 requires that each branch office "keep detailed records of all transactions at such branch office;" and

WHEREAS, the Commissioner has become aware that a number of mortgage company licensees and mortgage broker licensees (collectively "mortgage licensees") have been employing underwriters and processors who work remotely from their residences; and

WHEREAS, the Commissioner recognizes that the mortgage industry has evolved and that tasks that were formerly performed in an office setting can now be completed electronically without any harm to the public; and

WHEREAS, the Commissioner is cognizant of the need to adequately safeguard sensitive and confidential information that may be accessed by underwriters and processors at remote locations; and

WHEREAS, KRS 286.8-295 requires that every "mortgage loan company and mortgage loan broker" exercise "proper supervision and control over the operations, employees, and affairs of its company;" and

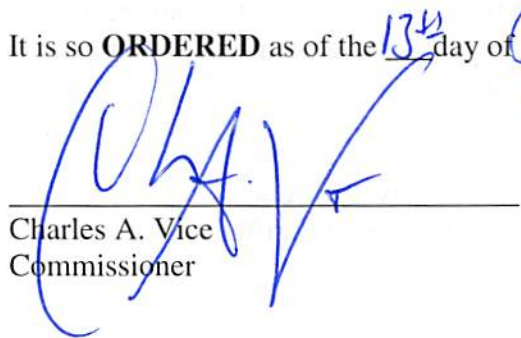
WHEREAS, pursuant to KRS 286.8-140(1), the Commissioner has the power "[t]o . . . promulgate such orders as are deemed to be necessary and appropriate to accomplish the basic purposes of and the provisions contained within this subtitle. . . No . . . order may be made, amended, or rescinded unless the commissioner finds that the action is necessary or appropriate in the public interest and consistent with the purposes fairly intended by the policy and provisions of this subtitle;" and

WHEREAS, pursuant to KRS 286.8-140(1), the Commissioner may also "classify . . . persons, and matters within his jurisdiction, and prescribe different requirements for different classes."

NOW, THEREFORE, the Commissioner hereby **ORDERS**:

1. Because the Department will typically not view a residence as constituting a location where a mortgage loan company, mortgage loan broker, or its employees maintain a physical presence for the purpose of conducting business in the mortgage lending process, and, as it is within the Commissioner's discretion to prescribe different requirements for different classifications within his jurisdiction, the Department will not require that mortgage licensees register, as branches, the individual residences of any underwriter and processor, employed by those licensees as W-2 employees, who engage in the mortgage lending process in such residences, so long as the provisions set forth herein are satisfied.
2. Mortgage licensees shall (a) keep an up-to-date list identifying the names and addresses of all underwriters and processors, employed by the licensees as W-2 employees, who are working, or have worked, from their residences within the preceding five years; and (b) implement policies and procedures to ensure that confidential documents, records or other materials accessed remotely by such underwriters and processors are as secure as if accessed at the licensees' principal locations or licensed branches.
3. Mortgage licensees shall implement policies and procedures to ensure that no documents, records or other materials accessed in the residences of their employed underwriters and processors are physically maintained in such residences, but rather are centrally maintained at the licensees' principal locations. All such records shall remain readily accessible to examination, investigation, and inspection by the Commissioner.
4. Mortgage licensees shall implement policies and procedures to ensure that none of their employed underwriters or processors meet with members of the public at their residences as part of the mortgage lending process, or hold their residences out as mortgage branch offices.
5. All existing provisions of KRS 286.8 pertaining to mortgage underwriters and processors shall continue to fully apply to mortgage licensees.

It is so **ORDERED** as of the 13th day of June, 2019.



Charles A. Vice
Commissioner