



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING
HARRISBURG

THE SECRETARY

July 8, 1994

Independent Contractors/Nonemployees Require Separate License Under Mortgage Bankers and Brokers Act

The Department of Banking of the Commonwealth of Pennsylvania (Department), consistent with the authority contained in section 10 of the Act of December 22, 1989 (P.L. 687, No. 90) (63 P.S. § 456.10), known as the Mortgage Bankers and Brokers Act (the Act), hereby provide the following policy statement regarding portions of the Act.

Section 3(b)(10) of the Act provides that "[e]mployees or a licensee or excepted persons action for the employers" are not required to obtain a separate mortgage banker license or mortgage broker license in order to conduct first mortgage business under the Act. Consistent with section 3(b)(10) of the Act, the Department does not consider this "employee" exemption from the Act's licensing requirements as applying to (i) persons who are being paid as independent contractors or Nonemployees under an Internal Revenue Service Form 1099, or (ii) persons treated as independent contractors of Nonemployees for any other government reporting purposes.

Independent contractors/Nonemployees who have not obtained or do not obtain the requisite lender or broker licenses, subject themselves and/or the entities for whom they are conducting first mortgagee business, to the penalty provisions, including fines, stated in section 14 of the Act.

Sincerely,

Sarah Hargrove
Secretary of Banking