

**What is an “Alternate Work Location”?**

A physical location, other than a licensed branch, where employees conduct mortgage lending process activities. The mortgage company/broker must approve of the employee working at an alternative work location, have proper policies and procedures in place, authorize the employee to work at the alternative work location, and maintain a list of all approved alternative work locations. [Reference KRS 286.8-010(2)].

**What activities can take place at an “Alternate Work Location”?**

Employees of a licensee may conduct all activities involved in the mortgage lending process at an alternative work location. except meeting in-person with a borrower or potential borrower, unless it is at a location for the convenience of the borrower on an infrequent or as-needed basis, such as a coffee shop or open house, and as long as the location is not the employee’s home. [Reference KRS 286.8-010(2)].

**Where can an MLO (mortgage lending officer) meet a borrower or potential borrower in person to complete activities that fall within the mortgage lending process?**

An MLO can meet with a borrower at a licensed location of the licensee, and at a location for the convenience of the borrower or potential borrower on an infrequent or as-needed basis, such as a coffee shop or open house. According to KRS 286.8-010 2(b)2, an MLO *cannot* meet with a borrower at the MLO’s home. An MLO may meet a consumer at the consumer’s home, if permitted by the licensee.

**When do I need a branch license for a location?**

A mortgage lending office and/or branch is generally a physical location where the mortgage lending process is conducted, that is maintained for the purpose of conducting business, displays signage of the licensee, and is where employees regularly meet with borrowers or potential borrowers. A branch license is needed for a location where customer records and data are gathered and processed. This does not include an alternate location where an employee may meet with a borrower or potential borrower for the convenience of the consumer, such as a coffee shop or open house.

**Will there be a fee charged for new branch applications?**

No, there will no longer be licensing fees charged for a branch location, however each branch must maintain a license.

**Is it the responsibility of the licensee to document and disclose all alternate work locations of its employees to the Department?**

Yes, the licensee must maintain an accurate list of approved alternate work locations and provide the list to the Department upon request.

**Will the Department issue a certification form that an officer will need to sign regarding alternate work locations?**

No, the licensee is responsible for overseeing the employees that work at alternative work locations.

**What are the requirements to allow employees to engage in the mortgage lending process from an alternate work location?**

The licensee must have written policies and procedures for supervision of employees working at alternate work locations, including but not limited to a written information technology security plan. The employees must access the company's computer systems and customer information in accordance with the company's written information technology security plan. The licensee must ensure that no physical documents or electronic copies of documents are maintained at an alternate location. No signage or advertising of the licensee or MLO can be displayed at an alternate work location.

**What are appropriate risk-based monitoring and oversight processes?**

The company/broker should ensure the following:

- Employees only access the customer records and accounts through the company's secure platforms;
- Employees are not keeping customer records or documents in any manner other than on the company's system;
- All customer interactions and communications should be conducted in a secure manner in accordance with all federal and state laws, including but not limited to the Gramm-Leach-Bliley Act of 1999 and the FTC's Safeguards rule;
- Employees use secure connectivity systems that require passwords and/or other forms of authentication to access;
- All security updates, patches, and other forms of security are installed and maintained for all employees accessing customer records from alternate work locations;
- Retain proof that the employee agrees to comply with the company's written security policies and procedures; and,
- Appropriately document that reviews of alternate work locations are being conducted annually, as defined by KRS 286.8-010(2)(b)(1).

**Does the licensee have to physically inspect each alternate work location to make certifications of documented review to the Department?**

A licensee must ensure compliance with statutory requirements. Physical inspections are preferred; however, the licensee may utilize other methods to ensure that employees comply with the requirements contained in statute. The DFI will hold licensees responsible for any liability, breach, or non-compliance with regulatory requirements.

**What does the licensee need to prove a documented review of an alternate location?**

The licensee is responsible for implementing a system to comply with the statutory requirements regarding the documented review of each alternate work location.

**Does the statute now allow for employees of mortgage loan companies and mortgage loan brokers to be paid as an IRS 1099 independent contractor?**

Licensees should follow IRS guidance and seek advice from competent legal counsel regarding compensation matters. Regardless of compensation method, the licensee is responsible for the activities of all employees, including MLO and loan processors.

**Will the statute changes apply to both Mortgage Loan Company and Mortgage Loan Broker licensees?**

Yes.

**Which address should a Mortgage Loan Originator enter as their employment location in NMLS?**

An MLO's employment address must be a licensed location of the company.

**How will the assessment fee be invoiced and paid? When will licensees receive the invoice for payment?**

The assessment fee will be invoiced in NMLS by Nov. 30th of each year.

**When is the assessment fee due?**

Dec. 31st of each year.

**How will the assessment fee be determined?**

The assessment is based on the volume of loans closed and/or the volume of loans serviced, as filed by the licensee on the Mortgage Call Reports (MCR) through NMLS for the previous 12-month period or the previous four quarters. The last reporting period for the fee assessment is the 3<sup>rd</sup> Quarter of each year, which must be filed by Nov. 1 of each year.

If a licensee fails to file an MCR, the volume used to calculate the assessment shall be annualized based on the MCRs that have been filed.

**Will licensees still receive invoices after July 13, 2022, for examinations that are performed?**

Licensees will receive invoices for any exams that are performed during 2022, since the annual assessment will be for the 2023 licensing year. If an exam is commenced in 2022, but not completed and invoiced until 2023, the licensee will still be responsible for that exam's invoice.

**Who can I contact if I have additional questions?**

For additional questions, email the Department at [kfi@ky.gov](mailto:kfi@ky.gov), or call toll free (800) 223-2579.