

Explanation of Amendments in CSSB 279(FIN)

The Senate Finance Committee amended SB 279, based on (1) comments received from the Conference of State Bank Supervisors (“CSBS”)* after the bill passed out of the Senate Labor and Commerce Committee; and (2) a few technical issues identified by the committee. The CSBS amendments were proposed to ensure compliance with the SAFE Act. The staff technical amendments generally provide clarification. Unless otherwise noted, page and line references below are to the location of the amendments in CSSB 279(FIN).

1. Changes proposed by CSBS

a. Approval authority for education courses

Under the SAFE Act, courses required for pre-licensing education and for continuing education have to be approved by the registry. Due to concern within the Department of Law (DOL) that the state’s approval authority cannot be delegated, the bill provided for approval of the courses by the state, with the understanding that the state would rely on the registry’s approval in making its decision to approve. CSBS felt this language conflicted with the registry’s approval authority.

The conflict is resolved with the amendments to the satisfaction of both the DOL and CSBS. In those sections of the bill that previously referred to approval of courses by the state, the bill now cites the approval under the specific SAFE Act section that describes the registry’s authority in this area. CSBS also pointed out that paragraph (e) of AS 06.60.038 (page 7 of SB 279) will be unnecessary under the SAFE Act and it has been deleted.

The changes that address these issues occur in AS 06.60.038 (pre-licensing education) (*see* section 12, page 7, lines 9 -19) and in AS 06.60.160 (continuing education) (*see* section 35, page 16, lines 3-13).

b. Approval authority for licensing test

The SAFE Act provides that the licensing test will be developed by SAFE and that the test will cover both federal and state law. CSBS felt that the separate approval by the state for the state component of the test conflicted with the SAFE Act. The amendments take out the separate references to the “national” and the “state” tests and just cite the section of the SAFE Act that describes the authority of the registry to develop the licensing test on both federal and state law.

* A wholly-owned subsidiary of CSBS owns and operates the Nationwide Mortgage Licensing System and Registry (“registry”).

This change is in AS 06.60.040 (testing of mortgage loan originators). *See* section 13, page 7, lines 23-26.

c. Disqualifying felony convictions

The SAFE Act requires that an applicant for licensing as a mortgage loan originator who has been convicted of any felony in the seven years before the application is disqualified from licensing. If a felony conviction involves “an act of fraud or dishonesty, a breach of trust, or money laundering,” then the applicant is disqualified not for seven years but for life. SB 279 included the limitation involving “fraud or dishonesty, a breach of trust, or money laundering” for felonies occurring within seven years of the application. This inconsistency with the SAFE Act is corrected by the amendment.

The change is in AS 06.60.060 (determinations before licensing). *See* section 17, page 9, line 20.

d. Definition of “residential mortgage loan”

The SAFE Act contains a definition of “residential mortgage loan” that is applicable to the states in their licensing of mortgage loan originators. SB 279 incorporated the elements of the SAFE definition in “mortgage loan,” read in combination with the definition of “residential property.” SB 279 also contained a separate definition of “residential mortgage loan” that incorporated the defined phrase “mortgage loan,” but added “for residential real property.” This arrangement could have created some confusion about whether “residential mortgage loan” and “mortgage loan,” both of which are used in the bill, are intended to have the same meaning and whether that meaning was consistent with the SAFE Act definition. To clear up any possible confusion, these amendments define “mortgage loan” to be the same as “residential mortgage loan” and all the SAFE definition elements are included in the “residential mortgage loan” definition.

This change is reflected in amendments to AS 06.60.990 (definitions). *See* section 81, paragraph (22), page 37, line 27, and paragraph (33), page 39, lines 30-31, and page 40, lines 1-3.

2. Staff Technical Amendments

a. “Internet” added to the list of communication methods for loan processor or underwriter advertising. *See* AS 06.60.013 (loan processors or underwriters), section 3, page 3, line 15.

b. Exemption clarified for an individual who offers or negotiates a loan secured by a mortgage on his or her own residence. Exemption applies to sellers (not buyers). *See* AS 06.60.015 (exemptions), section 4, page 4, line 3.

c. Time limit added for department action on a renewal application - within 60 days after the application is filed. *See AS 06.60.085 (renewal of license), section 20, page 12, lines 2-3.*

d. Record of department approval required for a change in control of a mortgage licensee (electronic record of registry will meet requirement). *See AS 06.60.130(a) (change in business control or business operations), section 30, page 14, lines 16-17.*

e. Three typographical edits and one change of wording from this “section” to this “chapter.”