

HOUSE JOINT RESOLUTION NO. 51

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE KELLER

Introduced: 2/23/10

Referred: Labor and Commerce

A RESOLUTION

- 1 **Supporting certain changes to proposed regulations to implement the Secure and Fair**
2 **Enforcement for Mortgage Licensing Act of 2008.**

3 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 **WHEREAS** the Secure and Fair Enforcement for Mortgage Licensing Act of 2008
5 was enacted into law in 2008; and

6 **WHEREAS** the new Act directs states to adopt licensing and registration
7 requirements for loan originators that meet the minimum standards in the new Act, rather than
8 directing the federal Department of Housing and Urban Development to establish and
9 maintaining a licensing system for loan originators; and

10 **WHEREAS** the federal Department of Housing and Urban Development has
11 proposed regulations to implement the new Act by setting out the minimum standards for the
12 states to meet when licensing loan originators; and

13 **WHEREAS** the proposed regulations should be changed to meet the mortgage
14 licensing needs of the state; and

15 **WHEREAS** proposed 24 C.F.R. 3400.103(e)(5) exempts from loan originator
16 registration requirements those individuals who offer or negotiate the terms of a loan secured

1 by their own residences; and

2 **WHEREAS** seller financing is crucial in certain markets, especially in times of
3 economic stress, and the Act is aimed only at loan originators who engage in lending
4 activities as a profession, not as an incidental and occasional aspect of their investment
5 activities; and

6 **WHEREAS** the seller financing exemption at proposed 24 C.F.R. 3400.103(e)(5)
7 should be broadened to exempt all sellers who provide financing for property they own, or to
8 exempt sellers who provide financing for up to 10 properties they own in a year; and

9 **WHEREAS** the seller financing exemption at proposed 24 C.F.R. 3400.103(e)(5)
10 should cover the heirs of a deceased individual who sell the inherited home even though it is
11 not their residence; and

12 **WHEREAS** the exemption for licensed real estate brokerage activities at proposed 24
13 C.F.R. 3400.103(e)(1) generally provides an exemption from the loan originator registration
14 requirements for an individual who performs only real estate brokerage activities and is
15 licensed or registered under state law; and

16 **WHEREAS**, under the exemption at proposed 24 C.F.R. 3400.103(e)(1), confusion
17 has arisen as to whether a licensed real estate practitioner who receives a real estate
18 commission from a lender selling property owned because of foreclosure, or otherwise, loses
19 that exemption, although covering the practitioner by the exemption appears to be the intent;
20 and

21 **WHEREAS** the confusion at proposed 24 C.F.R. 3400.103(e)(1) can be clarified by
22 providing in the regulation a specific example demonstrating that a licensed real estate
23 practitioner who receives a real estate commission from a lender selling property owned
24 because of foreclosure, or otherwise, loses that exemption only if the commission relates to
25 the origination of a loan;

26 **BE IT RESOLVED** that the Alaska State Legislature urges the United States
27 Department of Housing and Urban Development to change the proposed regulations that
28 implement the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 to

29 (1) broaden the proposed exemption for seller financing in proposed 24 C.F.R.
30 3400.103(e)(5) to

31 (A) exempt all sellers who provide financing for property they own, or

1 to exempt sellers who provide financing for up to 10 properties they own in a year;
2 and

3 (B) cover the heirs of a deceased individual who sell an inherited home
4 even though it is not their residence; and

5 (2) to clarify, in a specific example for the exemption in proposed 24 C.F.R.
6 3400.103(e)(1) for licensed real estate brokerage activities, that a licensed real estate
7 practitioner who receives a real estate commission from a lender selling property owned
8 because of foreclosure, or otherwise, loses this exemption only if the commission relates to
9 the origination of a loan.

10 **COPIES** of this resolution shall be sent to the Honorable Shaun L. S. Donovan,
11 United States Secretary of Housing and Urban Development; and the Honorable Lisa
12 Murkowski and the Honorable Mark Begich, U.S. Senators, and the Honorable Don Young,
13 U.S. Representative, members of the Alaska delegation in Congress.