



NATIONAL CONFERENCE of STATE LEGISLATURES

*The Forum for America's Ideas*

February, 2009

[To: State Legislative Leaders and Financial Services  
Committee Chairpersons and Vice Chairpersons]

**Joe Hackney**  
*Speaker of the House  
North Carolina  
President, NCSL*

**Gary VanLandingham**  
*Director, Office of Program  
Policy Analysis and Government  
Accountability (OPPGA)  
Staff Chair, NCSL*

**William T. Pound**  
*Executive Director*

We write on behalf of the National Conference of State Legislatures (NCSL) to respectfully urge your consideration of legislation in this legislative session to implement the federal Secure and Fair Enforcement (S.A.F.E.) for Mortgage Licensing Act. **If your state fails to act by July 31, 2009, your authority to license and regulate mortgage loan originators would be preempted.** Mortgage loan originators in any state that fails to act by July 31, 2009 would be licensed and regulated by the federal Department of Housing and Urban Development (HUD).

The S.A.F.E. Act was included in the Housing and Economic Recovery Act (H.R. 3221), signed into law on July 30, 2008. This provision requires that any residential mortgage originator must be either state-licensed or federally registered by July 31, 2009. A state not enacting legislation by July 31<sup>st</sup>, can be granted a two-year extension by HUD if they make a good faith effort to incorporate a state-licensing system by that date. In addition, states must ensure loan originators register with the Nationwide Mortgage Licensing System (NMLS) for accountability and transparency purposes.

The state-licensing system must meet several minimum requirements to maintain supervisory authority for loan originators. These include having a process to assess individuals acting as mortgage originators in their state without proper license or registration, criminal history and credit background checks, pre-licensure education and testing, establishing a minimum net worth or surety bonding requirements to reflect the dollar amount of loans by the originator and abiding by the obligations in the Nationwide Mortgage Licensing System, among others.

The Conference of State Banking Supervisors (CSBS) and the American Association of Residential Mortgage Regulators (AARMR) have created model state legislation which provides states with guidance in creating a system of licensure. This model state law ([http://www.csbs.org/AM/Template.cfm?Section=SAFE\\_Act](http://www.csbs.org/AM/Template.cfm?Section=SAFE_Act)) addresses the aforementioned major standards under the S.A.F.E. Act which state regulatory agencies and mortgage loan originators must abide by. In January 2009, HUD reviewed the model legislation and determined that it met the minimum requirements of the S.A.F.E. Mortgage Licensing Act.

We also must bring to your attention that in some states a version of the legislation may have been introduced that while purporting to implement the SAFE Act will actually dilute the minimum license requirements and will result in a state being determined to be out of compliance with the SAFE Act. This would allow HUD to then license and regulate the brokers in that state. We would urge you to review any legislation already introduced in your state to ensure that the legislation meets the minimum requirements as outlined in the CSBS model.

Denver  
7700 East First Place  
Denver, Colorado 80230  
Phone 303.364.7700 Fax 303.364.7800

Washington  
444 North Capitol Street, N.W. Suite 515  
Washington, D.C. 20001  
Phone 202.624.5400 Fax 202.737.1069

Website [www.ncsl.org](http://www.ncsl.org)

We appreciate the opportunity to bring this matter your attention. Should you have questions about our concerns, please contact Neal Osten at 202-624-8660 ([neal.osten@ncsl.org](mailto:neal.osten@ncsl.org)) or Jeff Hurley at 202-624-7753 ([Jeff.Hurley@ncsl.org](mailto:Jeff.Hurley@ncsl.org)) in NCSL's Washington office.

Sincerely,

A handwritten signature in black ink that reads "Joe Hackney". The signature is written in a cursive, flowing style with a large, prominent "J" and "H".

Speaker Joe Hackney, NCSL President

**From:** Jordan Estey **On Behalf Of** NCOIL President Sen. James Seward, NY  
**Sent:** Friday, March 06, 2009 2:58 PM  
**Subject:** NCOIL State Mortgage Licensing Model Act  
**Importance:** High  
March 6, 2009

Dear Colleague:

On behalf of the National Conference of Insurance Legislators (NCOIL), I am forwarding to you a model law that would establish critical mortgage licensing standards in your state. The *State Model Legislation for Implementation of Public Law 110-289, Title V—S.A.F.E. Mortgage Licensing Act* was unanimously approved by the NCOIL Executive Committee during the NCOIL Spring Meeting in Washington, DC.

The model legislation provides a template for states to enact and comply with the *S.A.F.E. Act's* minimum requirements for licensing state residential loan originators—including that all mortgage loan originators be either licensed or registered through a Nationwide Mortgage Licensing System (NMLS), which state regulators launched in 2008.

*If a state legislature fails to implement all of the S.A.F.E. Act requirements by July 31, 2009, the U.S. Department of Housing and Urban Development (HUD) could establish a duplicative and costly regulatory regime to license and regulate loan originators in your state.*

The model bill—developed by the Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators (AARMR)—addresses national testing, prelicensing, continuing education, background checks, and license suspension, termination, and nonrenewal, among other things.

For your reference, I am also forwarding a CSBS document that provides additional information on the *Housing and Economic Recovery Act of 2008* and on the *S.A.F.E. Act*, specifically.

NCOIL is an organization of state legislators whose primary area of interest is insurance legislation and regulation. Many legislators active in NCOIL either chair or are members of the committees responsible for insurance legislation in their respective state houses across the country. More information is available at [www.ncoil.org](http://www.ncoil.org).

Please do not hesitate to contact Mike Humphreys in the NCOIL Washington, DC, Office at 202-220-3014 or at [mhumphreys@ncoil.org](mailto:mhumphreys@ncoil.org) should you have any questions.

Sincerely,

Senator James Seward  
NCOIL President  
New York Senate