



STATE OF ALASKA
DEPARTMENT OF
COMMERCE
COMMUNITY AND
ECONOMIC DEVELOPMENT

Division of Banking and Securities

Sean Parnell, Governor
Emil Notti, Commissioner
Lorie Hovanec, Director

December 28, 2009

The Honorable Joe Paskvan
State Senate
1292 Sadler Way Suite 308
Fairbanks AK, 99701

Re: Mortgage Lending Bill Draft

Dear Senator Paskvan:

Enclosed for your consideration is a draft bill related to the regulation of residential mortgage lending. This bill is a continuation of the legislative work on this subject that began in the 2009 session. As you know, the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, 12 U.S.C. 5101-5116 (SAFE Act), requires changes in state law. Although the legislature provided authority for the state to participate in the Nationwide Mortgage Licensing System and Registry ("NMLSR" or "national registry"), which is one of the requirements of the SAFE Act, the other requirements of the SAFE Act remain to be addressed.

To recap last year's progress, the legislature first considered a bill that would have allowed the department to make the changes required by the SAFE Act through regulation. The bill was later revised to incorporate more of the SAFE requirements in the statute. Near the end of the session, an alternate bill was introduced and enacted for the limited purpose of granting the department authority to participate in the national registry.

General Description of Draft Bill

The attached draft bill addresses all the remaining requirements of the SAFE Act. Most importantly, it provides for the licensing of mortgage loan originators in conformity with the federal requirements, which include pre-licensing education and testing, authorization for obtaining background checks and credit reports, and continuing education. This bill also aligns various aspects of state law with SAFE Act requirements. For example, this bill provides for annual (rather than biennial) licensing as required for the registry under the SAFE Act.

In accordance with last year's legislation and regulations that have been adopted under it, mortgage lending professionals are now being licensed in Alaska through the national registry. The objectives of the registry (and its value), among other things, are (1) to aggregate and improve the flow of information to and between regulators; (2) provide increased accountability and tracking of mortgage lending professionals; (3) enhance consumer protections; (4) reduce fraud in the residential mortgage loan origination process; and (5) provide consumers with easily accessible information at no charge regarding the employment history of, and publicly adjudicated disciplinary and enforcement actions against, mortgage lending professionals. An additional benefit to the industry is the increased uniformity of the license application process, when doing business in more than one state.



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Loan originators who are employees of federally regulated depository institutions and their subsidiaries are required to register through the NMLSR, but are not subject to state licensing requirements. Our mortgage lending law applies to non-depository lenders; while banks, savings associations, and credit unions are depository institutions subject to federal oversight.

This bill incorporates the minimum licensing requirements of the SAFE Act. The state will conduct a background check on the applicant, based on the submission of fingerprints, personal history and experience, an independent credit report, and information relating to any administrative, civil, or criminal findings by any governmental institution. To be eligible for a license, an individual must not have been convicted of any felony within the preceding seven years or convicted of certain types of felonies at any time prior to application. Applicants must complete at least twenty hours of approved pre-licensing education, which shall include at least three hours on federal law and regulation; three hours of ethics, including fraud prevention, consumer protection, and fair lending issues; and two hours regarding lending standards for nontraditional mortgage products. The applicant must pass a written test approved by the NMLSR, which includes a state law component, administered by an approved test provider. Mortgage licensees must submit reports of condition to the NMLSR.

The SAFE Act requires that the state provide effective supervision and enforcement, and the draft bill provides for more specificity in this area, in accordance with the model state law developed by the Conference of State Banking Supervisors (CSBS) and the American Association of Residential Mortgage Regulators (AARMR) and approved by HUD and the standards in SAFE that HUD will follow in a state where it establishes a licensing system.

Timeline for Compliance

The SAFE Act is administered by the Department of Housing and Urban Development (HUD), which must either approve each state's licensing and registration program or establish a HUD-operated program in that state. If HUD determines that a state does not have a SAFE-compliant program in place by the statutory deadline, or if a state's mortgage loan origination licensing standards do not meet the minimum requirements of the Act, HUD is charged with establishing and implementing a system for licensing mortgage loan originators in that state.

The SAFE Act requires states to have compliant standards in place by July 31, 2009, for states whose legislatures meet annually. HUD may extend the deadline to be in compliance for up to 24 months on evidence that a state is making a good faith effort to adopt and implement the new mortgage licensing requirements.

On December 15, 2009, HUD published proposed rules regarding the procedures and standards it will follow in exercising its authority under the SAFE Act. Under those proposed rules, HUD provides deadlines for mortgage loan originators to meet the new education, testing, and background check requirements. For those licensed under a system enacted prior to the SAFE-compliant system, the



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proposed rules require that compliance occur by December 31, 2010. For individuals not licensed under a prior scheme, the deadline for compliance may not extend past July 31, 2010. The proposed rules state that HUD may approve later compliance dates based on unusual hardship to a substantial number of mortgage loan originators through no fault of the originators or the state.

Nationwide Compliance

According to a posting on the CSBS website,* which indicates it was undated on August 5, 2009, only one state (Minnesota) has not enacted SAFE-compliant legislation. Because Alaska enacted legislation that provided authority for participation in the national registry, that legislation is reflected on the posted chart. The chart does not indicate whether other states have passed legislation that so far only partially complies with the SAFE Act.

We look forward to working with you, your staff, and other legislators this session. You may call on me or section chief Patrice Walsh at any time, should you have questions or require further information.

Sincerely yours,

Lorie L. Hovanec

Lorie L. Hovanec, Director
Division of Banking and Securities

cc: Emil Notti, Commissioner, DCCED
Tyson Fick, Legislative Liaison, DCCED

*<http://mortgage.nationwidelicencingystem.org/SAFE/NMLS%20Document%20Library/State%20SAFE%20Legislation.pdf>

STATES MOVE AGGRESSIVELY TO IMPLEMENT SAFE ACT AND IMPROVE MORTGAGE SUPERVISION

Title V of P.L. 110-289, the *Secure and Fair Enforcement for Mortgage Licensing Act of 2008* ("SAFE Act"), was passed on July 30, 2008. The SAFE Act gave states one year to pass legislation requiring the licensure of mortgage loan originators according to national standards and the participation of state agencies on the Nationwide Mortgage Licensing System and Registry (NMLS).

States have moved in an unprecedented manner in just **ONE YEAR** to accomplish the following:

Legislation

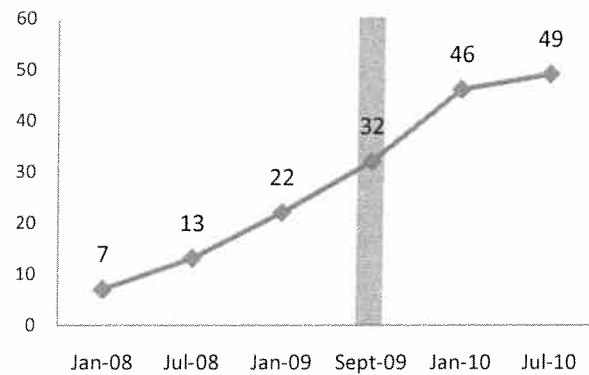
- **49 states** and the District of Columbia have *passed* legislation implementing the SAFE Act.
 - Puerto Rico and the Virgin Islands have *legislation pending*.
- **All** legislation enacted to date includes standardized definitions, national pre-licensure and continuing education and testing requirements, and criminal background standards for mortgage loan originators as contained in the SAFE Act.
- **Virtually all of the** legislation enacted to date includes a robust set of prohibited acts and practices to protect consumers as promoted in the CSBS/AARMR Model State Law.
- **Uniformity in mortgage regulation** has been fostered and driven by enactment of the SAFE Act as the 50 existing state licensing laws are revised in a nationally consistent manner to establish standardized licensing applications, processes and practices.



Participation in NMLS

- **32 states** and territories are already participating on the Nationwide Mortgage Licensing System.
 - 14 more states and territories (for a total of 46) are scheduled to participate by January 2010.
- **90% of states** are scheduled to be participating in NMLS by January 2010, just two years after launch of the system.

States / Territories Participating on NMLS



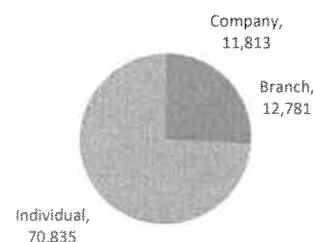
Testing and Education Standards

- NMLS developed the psychometrically valid SAFE Mortgage Loan Originator Test, with the national component of the test available for all state licensed mortgage loan originators on July 30, 2009.
- NMLS developed eleven SAFE state component tests that were available on July 30, 2009. Twenty-four state component tests will be available by December 2009 and the remaining state tests will be rolled out on a quarterly basis over the next year.
- Since July 13, 2009, 2,415 licensees or applicants have enrolled to take the national or state test components and since July 30, 2009, 664 test components have been administered.
- NMLS developed policy and procedures for approving course providers to offer pre-licensure and continuing education according to national standards. As of June 22, 2009, NMLS had approved 90 course providers, and as of July 15, 2009, had approved 70 pre-license education courses.
- As of September 1, 2009, state licensed MLOs and applicants have begun taking NMLS approved courses.

Coordinated Licensing of Companies and Mortgage Loan Originators

- **70,835 mortgage loan originators** in 32 states and territories have been issued a NMLS unique identifier and are being tracked in the system.
- **11,813 mortgage broker and lender companies** in 32 states and territories have also received an NMLS unique identifier and are being tracked in the system.

Companies, Branches and Individuals Tracked in NMLS



More information about state efforts to implement the SAFE Act and improve supervision can be found on the CSBS website at www.csbs.org.

More information about the Nationwide Mortgage Licensing System and Registry (NMLS) can be found at <http://www.stateregulatoryregistry.org/NMLS>.

State SAFE Act Legislative Tracking

State/Agency	Bill Number	Enacted
Alabama	<u>SB 249</u>	5/21/2009
Alaska	<u>HB 221</u>	6/16/2009
American Samoa		
Arizona	<u>HB 2143</u>	7/13/2009
Arkansas	<u>HB 1881</u>	4/1/2009
California DOC	<u>SB 36</u>	9/8/2009
California DRE	<u>SB 36</u>	9/8/2009
Colorado	<u>HB 1085</u>	5/21/2009
Connecticut	<u>SB 948</u>	6/18/2009
Delaware	<u>SB 73</u>	7/6/2009
District of Columbia	<u>B17-1021</u>	1/12/2009
Florida	<u>SB 2226</u>	6/29/2009
Georgia	<u>HB 312</u>	4/29/2009
Guam		
Hawaii	<u>SB 1218</u>	7/16/2009
Idaho	<u>HB 169</u>	4/7/2009
Illinois	<u>HB 4011</u>	7/31/2009
Indiana DFI	<u>SS 1001</u>	6/30/2009
Indiana SOS	<u>HB 1646</u>	5/12/2009
Iowa	<u>SF 355</u>	4/15/2009
Kansas	<u>SB 240</u>	3/27/2009
Kentucky	<u>HB 106</u>	3/27/2009
Louisiana	<u>HB 810</u>	7/10/2009
Maine	<u>SP0523</u>	6/11/2009
Maryland	<u>HB 292/SB 269</u>	4/14/2009
Massachusetts	<u>HB 4127</u>	7/31/2009
Michigan	<u>SB 462/</u>	7/29/2009
Minnesota		
Mississippi	<u>SB 2983</u>	4/15/2009
Missouri	<u>HB 382</u>	7/8/2009
Montana	<u>SB 351</u>	4/20/2009
Nebraska	<u>LB 328</u>	4/22/2009
Nevada	<u>AB 523</u>	6/8/2009
New Hampshire	<u>HB 610 FN</u>	7/31/2009
New Jersey	<u>AB 3816</u>	5/4/2009
New Mexico	<u>SB 342 / HB 316</u>	4/6/2009
New York	<u>A6924</u>	7/11/2009
North Carolina	<u>HB 1523</u>	7/31/2009
North Dakota	<u>SB 2160</u>	4/9/2009
Northern Mariana Islands		
Ohio	<u>HB 1</u>	7/17/2009
Oklahoma	<u>SB 1062</u>	5/12/2009
Oregon	<u>HB 2189</u>	6/26/2009
Pennsylvania	<u>HB 1654</u>	8/5/2009
Puerto Rico	<u>PC 1578</u>	
Rhode Island	<u>H 5704 / S 0461</u>	7/16/2009
South Carolina	<u>SB 673</u>	6/3/2009
South Dakota	<u>HB 1060</u>	3/16/2009
Tennessee	<u>HB2316</u>	6/23/2009
Texas OCCC	<u>HB 10</u>	6/19/2009
Texas SML	<u>HB 10</u>	6/19/2009
Utah DFI	<u>HB 286</u>	3/20/2009
Utah DRE	<u>SB 31</u>	2/20/2009
Vermont	<u>HB 171</u>	5/21/2009
Virgin Islands	<u>Bill 28-0106</u>	12/2/2009
Virginia	<u>SB 1171</u>	3/27/2009
Washington	<u>SB 1749/ HB 1621</u>	4/17/2009
West Virginia	<u>SB 532</u>	5/7/2009
Wisconsin	<u>SB62</u>	2/19/2009
Wyoming	<u>HB 169</u>	3/12/2009