

HB

221

<target><bill>HB 221</bill><subject>HB
221</subject><comm>SFIN26</comm></target>



ALASKA STATE LEGISLATURE

HOUSE LABOR & COMMERCE COMMITTEE

REP. KURT OLSON

Chairman
State Capitol, Room 124
Juneau, AK 99801-1182
(907) 465-2693 FAX 465-3835

Rep. Mark Neuman, V-Chair Rep. Mike Chenault
Rep. John Coghill Rep. Bob Lynn
Rep. Lindsey Holmes Rep. Bob Buch

Sponsor Statement

House Bill 221, Mortgage Lending Regulation

"An act relating to the state's participation in the federal Nationwide Mortgage Licensing System and Registry, and to mortgage lending regulation and licensing; and providing for and effective date."

HB 221 will allow the Department of Commerce, Community and Economic Development to participate in the National Mortgage Licensing System (NMLS) as prescribed by the federal Secure and Fair Enforcement of Mortgage Licensing Act of 2008 (SAFE). By authorizing the state to join the national database and testing system, mortgage lenders in Alaska can continue being licensed to do business by the state while the legislature and department work to revise mortgage lending licensing laws to make the many small changes needed to be fully SAFE compliant.

The SAFE Act requires that all states implement a mortgage law that conforms to its requirements by July 30, 2009, and that all states use a national database for licensing mortgage loan originators. States may comply through statute and regulation and may implement more comprehensive mortgage lending laws than are provided under the federal SAFE Act, which provides minimum standards and requirements.

Alaska is scheduled to join the NMLS on August 1, 2009, and to begin licensing through the NMLS at that time. It is important for the state to show our intent to comply with the SAFE Act by joining the NMLS on schedule. This will further support our application for an extension to the U.S. Department of Housing and Urban Development (HUD).

The advantages to joining the NMLS are the sharing of information among states, and the ability to conduct joint exams with other states for out-of-state mortgage loan originators doing business in Alaska. These are important steps in strengthening our already strong mortgage lending licensing laws and will protect consumers from shady lenders coming in from out of state and doing business without proper oversight and review.

I urge your support and the timely passage of HB 221

4/14/09

From: Lorie Hovanec, Director
Division of Banking and Securities (administers the Alaska Mortgage Lending Regulation Act)
Date: April 14, 2009
RE: Request for Support

HB 221 – Enabling Legislation to Join the National Mortgage Licensing System

PURPOSE

- **Provides enabling legislation to allow the state to join the national licensing system on schedule.**
The National Mortgage Licensing System and Registry is an on-line database system used for licensing and registering mortgage loan companies and professionals.¹ The Division is scheduled to begin licensing through this national uniform system on August 1, 2009. States join the system in groups, and we are scheduled to join with the August 1st group of states this year.

BENEFITS to Consumers, Regulators and the Industry

- **State Regulators:** State regulators started developing the national licensing system in 2003, and it launched in January of 2008 with 7 states. Currently about 30 states participate, and all states will be participating by the end of 2010. State regulators can access information about individuals and companies which conduct business in other states and which hope to do business in Alaska. Regulators and the industry can easily access information regarding the employment history of and publicly adjudicated disciplinary and enforcement actions against loan originators.
- **Consumers:** Consumer protection is enhanced by creating more accountability within the mortgage lending industry.
- **Mortgage Lending Industry:** Companies and professionals find the convenience & simplicity of the system advantageous. The system provides the ability to update, amend, renew or apply for licenses online over a secure website 362 days a year. For businesses which operate in numerous states, the system's uniform application form and process make doing business easier. Companies can also track the employment history of loan originators before hiring them.

PARTICIPATION IS ALSO FEDERALLY MANDATED

- **SAFE Act.** On 7/30/08, a new federal law called the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (the SAFE Act) became effective and requires all state to join and use this national database for licensing mortgage loan originators. HB 221 enables Alaska to comply. Other licensing standards required under the SAFE Act are being addressed in separate legislation which is being carried over to next year.
- **7/30/09 Deadline.** Under the SAFE Act, Alaska has until 7/30/09, to comply. If the deadline is not met, HUD is required to either set up a licensing system in the state OR to grant an extension, if the state has demonstrated a good faith effort to comply. Under HB 221, a new section of law is added to our current law, which allows us to join the national system and pay a one-time fee (\$50,000, the state's share of the system development costs). Thereafter, participation costs are covered by licensing and registration fees.
- **Demonstrates good faith effort to HUD to qualify for 1 year extension.** By joining the national database licensing system, the state will likely qualify for a 1 year extension from HUD to bring our current mortgage lending law into compliance with other SAFE Act requirements.
- **Avoids dual licensing of the mortgage lending industry.** If Alaska does not demonstrate a good faith effort and is not granted an extension, then the mortgage lending industry may have to operate under two separate licensing systems: both state and federal.

¹ This uniform licensing system is similar to what has been done by state agencies in the securities and investment advisor industries.

COPY ON FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 4/15/09

FURTHER:

DATE TURNED
IN TO OFFICE: 4/17/09

Finance Committee considered CS FOR HOUSE BILL NO. 221(L&C)

HB 221 MORTGAGE LENDING REGULATION

"An Act relating to the state's participation in the federal Nationwide Mortgage Licensing System and Registry, and to mortgage lending regulation and licensing; and providing for an effective date."

and recommends:

- be replaced with SCS or CS _____ (_____)
- adopt previous SCS or CS _____ (_____)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<hr/>	
HOUSE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

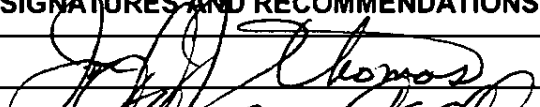
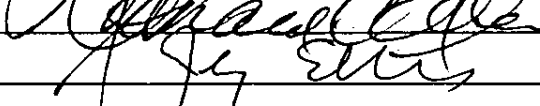
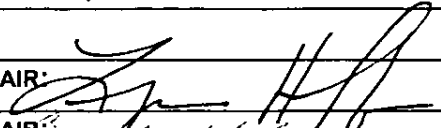
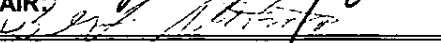
NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	Thomas	✓			
	OLSON ELLIS	✓		✓	
CO-CHAIR: 	Hoffman	✓			
CO-CHAIR: 	ST. EDMUND	✓			

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 221L&C
 (H) Publish Date: 4/11/09

Identifier (file name): HB221-CED-BAS-04-08-09 Dept. Affected: DCCED
 Title Nationwide Mortgage Licensing System and Registry RDU Banking and Securities
 Component Banking and Securities
 Sponsor House Labor and Commerce Committee
 Requester House Labor and Commerce Committee Component Number 2808

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES								
Personal Services								
Travel	28.0		7.0	0.0	0.0	0.0	0.0	0.0
Contractual	70.0		0.0	0.0	0.0	0.0	0.0	0.0
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING	98.0	0.0	7.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES								
CHANGE IN REVENUES ()								

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Rcpt Svcs (1156)	98.0		7.0					
TOTAL	98.0	0.0	7.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost:

POSITIONS

Full-time	0	0	0	0	0	0	0
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

This bill will amend statute to allow the state to enroll in the National Mortgage Lending System (NMLS) database and national testing system prior to the federally mandated July 31, 2009 deadline.

Alaska's state mortgage lending law (effect July 1, 2008) requires that mortgage lenders, brokers, and originators apply for and obtain a mortgage license to do business in Alaska. The federal S.A.F.E. Act (enacted July 30, 2008) requires, in part, that all states utilize a national database licensing system called the National Mortgage Lending System (NMLS) to license mortgage loan originators.

Prepared by: Lorie Hovanec, Director
 Division: Banking and Securities
 Approved by: Emil Notti, Commissioner
Department of Commerce, Community and Economic Development

Phone 465-5448
 Date/Time 04-08-09/ 5:00pm
 Date 4/8/2009

FISCAL NOTE #1

STATE OF ALASKA
2009 LEGISLATIVE SESSION

BILL NO. CSHB 221(L&C)

ANALYSIS CONTINUATION

The contractual component in this fiscal note reflects and a one-time fee of \$50,000 to join the NMLS; and \$20,000 for system upgrades to interface with the NMLS.

The travel component in this fiscal note reflects necessary attendance by the licensing examiner and the regulatory examiners at training seminars held at the NMLS headquarters in Richmond, VA in FY10. Another training seminar will be held in FY 11 that would be attended by a regulatory examiner. Travel to Richmond, VA is necessary to provide hands-on training where the database is housed. It also allows two very distinct areas of training on the NMLS system. One area is to accept the application for licensure issued by each state and the second area is for the regulatory examiners to access information for enforcement actions.

At some time in the future the state is required to pass legislation that would bring the state into full compliance with the federal S.A.F.E. act. At that time approximately \$30,000 in legal fees would be needed for regulation drafting and review.

After FY11 this bill will have a zero fiscal impact for the Department. Any additional workload required to to implement this legislation will be absorbed by existing staff.

4/16/09



**CSBS/AARMR
Nationwide Mortgage Licensing System**

Improving Supervision of the Mortgage Industry through Collaboration and Technology

In order to protect their citizens and bring greater accountability and transparency to the mortgage industry, state mortgage regulators developed the Nationwide Mortgage Licensing System ("NMLS"). NMLS increases and centralizes information available to state regulators and the mortgage industry about the professionals and companies that originate home mortgages.

State regulators recognized that the rapid expansion and evolution of the mortgage industry demanded a regulatory framework that was efficient and effective. In 2003, a nationwide taskforce of regulators began developing a uniform licensing registry, which was launched on January 2, 2008 as the Nationwide Mortgage Licensing System.

NMLS

Nineteen states currently use the system to manage their mortgage licenses. In January 2009, four more states will join. Thus, in the first year of operations, nearly half of the states will be part of a system that:

- Improves the efficiency and effectiveness of supervision of the mortgage industry;
- Enhances consumer protection;
- Fights mortgage fraud and predatory lending that costs consumers and the industry hundreds of millions of dollars each year;
- Increases accountability among mortgage industry professionals; and
- Unifies and streamlines state license processes for mortgage lenders and brokers.

In the first 11 months of operations, NMLS is already managing:

- Over 11,300 mortgage companies
- Over 10,200 mortgage company branch locations
- Over 50,800 loan officers

Through NMLS, licensed mortgage lenders, bankers, broker companies and loan officers in participating states are able to complete a *single* uniform form electronically, regardless of the number of states in which they are licensed. This information is housed in a secure centralized repository available to mortgage regulators. Licensees are able to access their own record 7 days a week through the NMLS website to update, amend and renew their licenses, or apply for new licenses.

Increasing Transparency and Accountability in the Mortgage Industry

As mortgage companies and/or individuals create a record for themselves and submit to their regulators, NMLS will permanently assign a unique identifying number to each record. The unique identifying number allows regulators to definitively track companies and professionals across states and over time.

Additionally, consumers and the industry will eventually be able to check on the license status and history of the companies and professionals with which they wish to do business in order to make a more informed decision.

Raising Standards through the S.A.F.E. Act

On July 30, 2008, the President signed into law the Housing and Economic Recovery Act of 2008. Title V of this Act, entitled *The Secure and Fair Enforcement Mortgage Licensing Act of 2008* ("S.A.F.E. Act"), recognizes and builds on states efforts by requiring all mortgage loan originators, regardless of the type of entity they are employed by, to be either state-licensed or federally-registered. All mortgage loan originators must be licensed or registered through the expanded Nationwide Mortgage Licensing System and Registry.

Under the S.A.F.E. Act, all states must implement a mortgage loan originator licensing process that meets certain minimum standards and must license loan originators through NMLS.

More information about NMLS is available at <http://www.stateregulatoryregistry.org/NMLS>.

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Conference of State Bank Supervisors is the national organization for state banking, representing the bank regulators of the 50 states, the District of Columbia, Guam, Puerto Rico and the Virgin Islands, and approximately 6,200 state-chartered financial institutions. The Conference is responsible for defending state authority to determine banking structure and the products and services state-chartered institutions can offer and for improving the quality of state bank supervision by providing the departments with performance evaluation and accreditation programs and supervisory education/training programs for state banking department personnel.

American Association of Residential Mortgage Regulators is the national organization representing state residential mortgage regulators. AARMR's mission is to promote the exchange of information between and among the executives and employees of the various states who are charged with the responsibility for the administration and regulation of residential mortgage lending, servicing and brokering.

12/30/2008

4/10/09



Alaska State Legislature

Please enter into the record my testimony to the House Labor + Commerce
 committee name
 committee on HB 221, dated 4-10-09
 bill/subject

Good Afternoon Mr. Chairman and Committee Members:

I am John Martin, President of the Alaska Association of Mortgage Brokers. Our organization along with the Alaska Mortgage Bankers Association worked closely with the Division of Banking and Securities to get our existing mortgage licensing law passed several years ago. It was passed unanimously in the House and Senate.

Since that time the Federal Government has passed the Secure and Fair Enforcement Act (SAFE Act), which pertains to mortgage licensing. It sets the minimum standards all states must comply with by July 31, 2009. If the standards are not met in time, HUD has the authority to grant an extension to the states based on their good faith efforts to comply with the SAFE Act.

Recently legislation was introduced to conform to the SAFE Act, SB145. That legislation has undergone changes with more to come. There is not enough time in this legislation period to iron it all out. Consequently, we will be working closely with the Department and the Alaska Mortgage Bankers Association to finalize the language.

During the interim, the state can apply for an exemption from HUD in regards to the SAFE Act based upon; pending legislation; the fact that our present statute substantially already complies with the SAFE Act; and by joining the Nationwide Mortgage Licensing System and Registry (NMLSR.)

This particular bill today, will grant the State the necessary authority to join the NMLSR and once signed into law will help Alaska get closer to compliance.

I would urge you to expedite this bill and pass it out of committee so the state can meet their target date for joining the NMLSR on August 1, 2009 as per their letter of intent.

Thank you for your consideration and attention to this matter.

Respectfully,

John Martin, CMC, CMPS
 President,
 Alaska Association of Mortgage Brokers