



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

JAN 15 2010

Mr. John Munn
Director
Nebraska Department of Banking and Finance
Commerce Court
1230 O St.
Lincoln, NE 68509-5006

RE: The Secure and Fair Enforcement for Mortgage Licensing Act of 2008

Dear Director Munn:

The Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (the SAFE Act) was enacted on July 30, 2008, as part of the Housing and Economic Recovery Act of 2008. The SAFE Act is designed to enhance consumer protection and reduce fraud by encouraging states and U.S. territories to establish minimum standards for the licensing and registration of certain mortgage loan originators and for the Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators (AARMR) to establish and maintain a nationwide mortgage licensing system and registry for the residential mortgage industry.

Pursuant to our responsibilities under the SAFE Act, the U.S. Department of Housing and Urban Development (HUD) has conducted a preliminary review of the licensing and registration legislation adopted by your jurisdiction. In order to assist your jurisdiction's efforts at compliance, enclosed for your review is our side-by-side comparison chart of provisions in your statute that appear to be inconsistent with, or at a minimum raise questions regarding compliance with, the SAFE Act. This chart is not a determination of your jurisdiction's compliance with the minimum requirements of the SAFE Act. Rather, HUD has provided this preliminary review as a tool to help identify specific areas of your statute that may require legislative or regulatory changes or clarification. In connection with this preliminary review, HUD also notes that your statute authorizes the implementation of SAFE Act requirements through regulatory or administrative means. Therefore, a determination of compliance with the minimum provisions of the SAFE Act will require HUD review of those regulations or administrative actions.

In addition, HUD's proposed SAFE regulations were published in the Federal Register on December 15, 2009, for a 60-day comment period, a link for which is provided here: <http://www.hud.gov/offices/hsg/ramh/safe/safeprule.pdf>. This proposed rule provides a detailed interpretation of the SAFE Act's minimum standards that jurisdictions would be required to meet when registering and licensing loan originators. The Department specifically requests your comments on the proposed rule in accordance with the instructions provided in the preamble. Until these rulemaking procedures are complete through HUD's issuance of a final rule, these regulations are subject to change

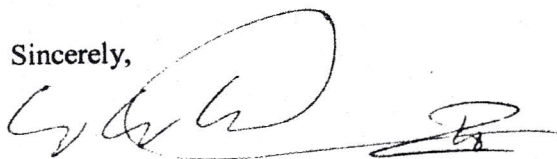
and are not provided as a direct measure of your jurisdiction's current efforts at compliance.

In order to facilitate a faster response to your questions and concerns, the Department has assigned a SAFE Act Specialist to act as the primary point of contact for your jurisdiction. The specialist assigned to work with your jurisdiction is:

Kevin Stevens
Phone: (202) 402-4317
Email: Kevin.L.Stevens@hud.gov

Please feel free to give Kevin a call if you have any questions or concerns. In addition, you can provide the specialist with any information that you believe would be important for HUD's consideration in assessing your state's compliance with the SAFE Act.

Sincerely,



William W. Matchneer III
Associate Deputy Assistant Secretary for
Regulatory Affairs and Manufactured Housing

Enclosure

NEBRASKA SAFE ACT LEGISLATION
January 15, 2010

NOTE: The Nebraska Residential Mortgage Licensing Act (Legislative Bill 328 of 2009) amended Nebraska's existing mortgage licensing statute (Nebraska's Revised Statute Sections 45-701;45-706, Sections 9-39)

	Nebraska's SAFE Act Legislation	Corresponding SAFE Act provisions, HUD's Proposed Regulations, and Guidance, where applicable	HUD Comments
1.	<p>Section 45-703- Exemptions 45-703 (1) Except as provided in section 45-704, the following shall be exempt from the Residential Mortgage Licensing Act: . . .</p> <p>(b) Any registered bank holding company;</p> <p>(c) Any insurance company that is subject to regulation by the Department of Insurance and is either (i) organized or chartered under the laws of Nebraska or (ii) organized or chartered under the laws of any other state if such insurance company has a place of business in Nebraska; . . .</p> <p>(g) Any sales finance company licensed pursuant to the Nebraska Installment Sales Act if such sales finance company does not engage in mortgage banking business in any capacity other than as a purchaser or servicer of an installment contract, as defined in section 45-335, which is secured by a mobile home or trailer;</p> <p>(h) Any trust company chartered</p>	<p>Proposed Rule: § 3400.103 (e) (e) A State is not required to impose the prohibitions required under paragraphs (a) and (d) of this section on the following individuals:</p> <p>(1) An individual who performs only real estate brokerage activities and is licensed or registered in accordance with applicable State law, unless the individual is compensated directly or indirectly by a lender, mortgage broker,</p> <p>or other loan originator or by an agent of such lender, mortgage broker, or other loan originator;</p> <p>(2) An individual who is involved only in extensions of credit relating to timeshare plans, as that term is defined in 11 U.S.C. 101(53D);</p> <p>(3) A loan processor or underwriter who performs only clerical or support duties and does so at the direction of and subject to the supervision and instruction of an individual who is licensed and registered in accordance with paragraph (a) of this section or who is exempt under paragraph (e)(7) of this section;</p> <p>(4) An individual who only offers or negotiates</p>	<p>The exemptions cited in the chart and provided for in Nebraska's statute are not expressly provided for in the SAFE Act, nor are they included in HUD's Proposed Rule.</p> <p>To the extent that Nebraska applies its exemptions to the individual employees, the exemption may differ from the SAFE Act and HUD's proposed rule when such employees are engaging in the business of a loan originator.</p>

<p>pursuant to the Nebraska Trust Company Act;</p> <p>(i) Any wholly owned subsidiary of an organization listed in subdivisions (b) and (c) of this subsection if the listed organization maintains a place of business in Nebraska;</p>	<p>terms of a residential mortgage loan with or on behalf of an immediate family member of the individual;</p> <p>(5) Any individual who only offers or negotiates terms of a residential mortgage loan secured by a dwelling that served as the individual's residence.</p> <p>(6) A licensed attorney who only negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such lender, mortgage broker, or other mortgage loan originator; or</p> <p>(7) An individual who is registered with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry, and who is an employee of—</p> <p>(i) A depository institution;</p> <p>(ii) A subsidiary that is:</p> <p>(A) Owned and controlled by a depository institution; and</p> <p>(B) Regulated by a Federal banking agency; or</p> <p>(iii) An institution regulated by the Farm Credit Administration.</p>	
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