

Mr. Greg Gonzales  
Commissioner  
Tennessee Department of Financial Institutions  
Bank of America Building  
414 Union St. Suite 1000  
Nashville, TN 37219

JAN 20 2010

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

Dear Commissioner Gonzales:

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](mailto: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,

A handwritten signature in black ink, appearing to read "William W. Matchneer III". The signature is fluid and cursive, with a prominent initial "W" and a long horizontal stroke extending to the right.

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

Enclosure

**TENNESSEE SAFE ACT LEGISLATION**

**January 20, 2010**

	Senate Bill 2279/Amends Title 45, Chapter 13	CORRESPONDING SAFE ACT PROVISIONS, HUD COMMENTARY & PROPOSED RULE LANGUAGE, WHERE APPLICABLE	HUD COMMENTS
1.	<p><b>Section 45-13-301. Mortgage Loan Originator – License Required.</b>                      (e) Any individual acting as a loss mitigation specialist shall not be required to comply with the licensing requirements of this section until July 30, 2011, or such other date as may be determined by the commissioner with the approval or consent of the United States Department of Housing and Urban Development. A loss mitigation specialist may refer a mortgagor to a mortgage loan originator for purposes of refinancing the residential mortgage loan without the requirement of a license under this part, provided that the loss mitigation specialist does not receive any compensation or gain for the referral, and also provided that the referral is made in accordance with any applicable state and federal law.</p> <p><b>Definition of “loss mitigation specialist” from Section 45-13-105:</b>                      (27) "Loss mitigation specialist" means an individual employed by a mortgage lender or mortgage loan servicer licensed under this chapter, or by a registrant</p>	<p><b>PROPOSED RULE § 3400.109 Effective date of state requirements imposed on individuals.</b>                      (a) Except as provided in paragraphs (b), (c), and (d) of this section, a state must provide that the effective date for requirements it imposes in accordance with §§ 3400.103, 3400.105, and 3400.107 is <b>no later than July 31, 2010. . . .</b>                      (d) For an individual who engages in the business of a loan originator solely by providing or facilitating residential mortgage loan modifications and refinancing under the Department of the Treasury’s Making Home Affordable program, a state may delay the effective date for requirements it imposes in accordance with §§ 3400.103, 3400.105, and 3400.107 until the date such program is terminated.</p>	<p>HUD’s proposed rule permits a delayed effective date for individuals who engage in the business of a loan originator solely by providing or facilitating residential mortgage loan modifications and refinancing under the Department of the Treasury’s Making Home Affordable program until such date that that program is terminated. Tennessee’s provision differs from HUD’s proposed rule by permitting a delayed effective date applicable to a broader category of loan modifications.</p>

**TENNESSEE SAFE ACT LEGISLATION**

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<p>authorized to make residential mortgage loans under the Industrial Loan and Thrift Companies Act compiled in Title 45, Chapter 5, whose activities are confined to the negotiation of terms of an existing residential mortgage loan owned or being serviced by that licensee or registrant for purposes of modifying the terms of the loan, such as by reducing the interest rate or extending the term of the loan, when such modification is done for purposes of avoiding or curing default; provided, that "negotiates terms of an existing residential mortgage loan" as used herein shall not include the negotiation of a refinancing of the loan.</p>		
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