

S.A.F.E. Mortgage Licensing Act

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The Secure and Fair Enforcement for Mortgage Licensing Act of 2008

- The S.A.F.E. Act comes from Title V of the Housing and Economic Recovery Act of 2008 (“HERA”)
- Signed into law by the President on July 30, 2008
- All states are required to be in compliance or have an implementation plan to bring themselves into compliance no later than July 31, 2009

S.A.F.E. Act Purpose

- The purpose of S.A.F.E. is to establish national minimum standards for licensure of loan originators.
- It requires participation by all states in the National Mortgage Licensing System and Registry (“NMLSR”).
- It also establishes a requirement for all loan originators employed by depositories to be registered in a national database.

Disclaimer

- The facts in this presentation represent the requirements of the federal S.A.F.E. Act and do not incorporate the changes that may be needed to ensure Ohio law is in compliance with all aspects of the new law.

Important Definitions

Per the S.A.F.E. Act, a Loan Originator is defined as an individual who

- 1) Takes a residential mortgage loan application
- 2) Offers or negotiates terms of a residential mortgage loan for compensation or gain

Does not include processors/underwriters; real estate brokers/salespersons; or persons involved in financing timeshare plans

Important Definitions (continued)

Per the S.A.F.E. Act, a State-Licensed Loan Originator is defined as any individual who:

1. Is a loan originator;
2. Is not an employee of
 - A depository institution;
 - A subsidiary that is owned and controlled by a depository institution and regulated by a Federal banking agency; or
 - An institution regulated by the Farm Credit Administration
3. Is licensed by a State and registered with the NMLSR

Important Definitions (continued)

Per the S.A.F.E. Act, a Registered Loan Originator is defined as any individual who:

1. Meets the definition of loan originator and is an employee of:
 - A depository institution
 - A subsidiary that is owned and controlled by a depository institution and regulated by a Federal banking agency or
 - An institution regulated by the Farm Credit Administration
2. Is registered with the NMLSR

S.A.F.E. Act Licensing Requirements

- All State-licensed loan originators must comply with the following federal minimum requirements:
 - Must never have had a loan originator license revoked by any governmental jurisdiction
 - Must not have been convicted of or pled guilty or no contest to a felony in the last 7 years

S.A.F.E. Act Licensing Requirements (continued)

- Must never have pled guilty or no contest to or been convicted of a felony involving an act of fraud, dishonesty, breach of trust or money laundering
- Must demonstrate financial responsibility, character and general fitness
- Must complete a minimum of 20 hours of pre-licensing education
- Must pass a written test with a minimum score of 75%

S.A.F.E. Act Licensing Requirements (continued)

- Must submit to an FBI background check
- Must obtain a unique identifier from the NMLSR
- Must provide to the NMLSR the individual's personal history and experience
- Must meet state mandated minimum net worth or surety bond requirements

S.A.F.E. Act Renewal Requirements

- Must maintain a unique identifier issued by the NMLSR
- Must complete a minimum of 8 hours of continuing education
- Must continue to meet minimum standards for licensure

S.A.F.E. Act Registration Requirements

- System of registration will be administered by the Federal Financial Institutions Examination Council (FFIEC)
- At a minimum the following must be submitted to the NMLSR:
 1. Fingerprints for submission to the FBI, and any governmental agency or entity authorized to receive such information for a State and national criminal history background check; and
 2. Personal history and experience, including authorization for the NMLSR to obtain information related to any administrative, civil or criminal findings by any governmental jurisdiction.

Minimum requirements for a state to be in compliance with S.A.F.E.

- Provide effective supervision and enforcement of state law; must include ability to suspend, terminate or deny renewal due to violations of federal law
- Ensure that all state-licensed loan originators are registered with the NMLSR

Minimum requirements for a state to be in compliance with S.A.F.E. (continued)

- Regularly report violations of the law, as well as enforcement actions and other relevant information, to the NMLSR
- Establish a process for challenging information contained in the NMLSR

Minimum requirements for a state to be in compliance with S.A.F.E. (continued)

- Establish a mechanism to assess civil money penalties for unlicensed activity
- Establish minimum net worth or surety bond requirements that reflect the dollar amount of loans originated by a loan originator