

The **SAFE Act**, or, more specifically, the Secure And Fair Enforcement (S.A.F.E) Mortgage Licensing Act of 2008, was included as Title V in the Housing and Economic Recovery Act of 2008.

The purpose of the SAFE Act is three fold:

1. To create uniformity in licensing and *reduce regulation*.
2. To *track fraud* nationally by having a comprehensive database (for example, in the last two years brokers who committed a criminal act in one state could potentially move states and open up business without a problem. Something like this would no longer be possible)
3. *Increase consumer protection*, not only by allowing consumers access to certain loan originator information by implementing reporting requirements

The SAFE Act encourages the CSBS (Conference of State Bank Supervisors) to create a National Mortgage Licensing System and Registry, or NMLS. The NMLS is essentially a computer system and database which facilitates the SAFE Act, but also involves creating the guidelines behind uniform licensing, testing and education associated with the SAFE Act.

Joining the CSBS initiative is optional for states, so there is no immediate requirement for a state to join; however, there is a clause in the SAFE Act that provides for HUD as a back-up if a state has not qualified through CSBS within 1-2 years; as you can imagine, the most logical choice for a state is to join the CSBS Initiative.

### **Who Needs to be Registered?**

The SAFE Act specifies that people who need to be registered include: *anyone who takes an application or who offers or negotiates rates or terms for compensation will need to be registered.*

Not surprisingly, this includes loan officers and brokers. This also includes two other categories that differ from a number of standard state laws:

- Any real estate brokers *compensated by a loan originator* or
- Processors or underwriters who act as *independent contractors*

Specific people who are exempt include:

- Real Estate brokers (unless compensated by a loan originator, as previously mentioned)
- Purely administrative/clerical personnel (see below)
- Soley involved in extending credit relating to timeshare plans
- Employees of institutions regulated by Federal banking agencies (e.g. - FDIC, Federal Reserve, etc...)

*Note on Purely Administrative / Clerical Personnel*

Processor, as long as they purely act in an administrative or clerical function (in other words, they do not negotiate, offer or counsel about terms), they will not need to be licensed. Generally, a way to think about it is that they must be limited to information gathering and communicating with the consumer only for processing or underwriting purposes

### **What am I Required to Do?**

1) Register with the below:

- A unique NMLS identifier (see the "Getting Started" box in the NMLS Home Page to obtain one)
- Fingerprints
- Employment history
- Personal history
- Credit report

- 2) Fulfill the education requirement (see below)
- 3) Fulfill the testing requirement (see below)
- 4) Conduct certain reporting (TBD)

**IMPORTANT NOTE:** It is important to know that SAFE provides a "floor" for loan originator requirements, but not a "ceiling." States can, and many will, have additional requirements; however, the NMLS will provide that information. For an example, select a state from the List of Participating States and you will see that they list the state requirements.

### **When do I Need All of This?**

License Renewal: Each state has passed or is passing legislation which includes a deadline by which all current licensees must register with NMLS. Deadlines have passed in about 15 states, but licensees in all cases have been given plenty of notice

For education/testing the final dates are state specific. The soonest deadlines are:

- Pennsylvania: 12/31/2009
- New Hampshire: 12/31/2009

Whatever the states decide, all MLOs will have to complete their education/testing by the end of 2010 and it will be a requirement for all new MLOs by 6/30/2010

### **What do I Need for Education?**

By the end of 2010, all loan originators will need 20 hours of pre-licensing under their belt. That education will consist of:

- 20 hours of pre – licensing education courses approved by NMLSR. The education must include:
  - 3 hours of Federal law and Regulation
  - 3 hours of Ethics, including fraud, consumer protection and fair lending
  - 2 hours of Standards on non-traditional mortgage lending
  - 12 hours electives
    - Note: States may mandate the use of these elective hours. For example, a state could ask that 4 hours of these 20 consist of state law

Thereafter, loan originators will need continuing education each year

- 8 hours of continuing education annually, including:
  - 3 hours of Federal law and Regulation
  - 2 hours of Ethics, including fraud, consumer protection and fair lending
  - 2 hours of Standards on non-traditional mortgage lending

The formats for education will be both standard classroom type formats as well as an online option. The online pre-licensing format will be more interactive than formerly allowed by many states.

The continuing education format will be much more free-form.

### **What About the Test?**

The test is going to be conducted by Pearson VUE and will be 100 questions for the national exam. Any states that

decide to have a state required test will have tests with approximately 50 questions.

The National Test Details:

- Pass or Fail
- 75% needed to pass
- If failed once, can take it again 1 month later and again 1 month after that
- If fail four times, then have to wait 6 months to take the test again
- The 100 questions will be:
  - 35% Federal Law
  - 25% General Knowledge
  - 25% Loan Origination Activities
  - 15% Ethics
- [Click here to see the National Test Outline](#)

Many of the state tests are still not available.

As you can see, while the law will go a long way toward helping devise uniform standards for loan originators and protecting the consumer, there are still a number of open points that need to be determined. Until there is more clarity from the various legislative agencies, we advise our customers to continue to comply with the rules and regulations that are currently in place for the states they are licensed in, by taking the appropriate state- specific coursework that is available through MortgageEducation.com.

MortgageEducation.com is staying in close touch with the regulators and the individual state agencies to ensure that we can provide our customers with the most up to date information on how to stay fully compliant with the fast-changing requirements. Our coursework covers all the topics that we expect to see as part of the new SAFE standard and we are working to ensure we are responding quickly to any new or additional standards.

If you have any additional questions about SAFE, or about how we can help you stay up to date with all of the relevant coursework in these changing times please email us at [info@mortgageeducation.com](mailto:info@mortgageeducation.com)