

Article 1: Minnesota S.A.F.E. Mortgage Licensing Act of 2010

Section

1 Title. States two different names by which this act can be cited.

2 Definitions. Defines 14 terms used in this act.

3 License and regulation required.

Subd. 1. Generally. Prohibits any individual from engaging in the business of making residential mortgage loans in Minnesota unless the individual is licensed under this chapter or exempt under subdivision 2.

Subd. 2. Exemptions. Exempts: (1) registered mortgage loan originators when acting for a depository institution (mostly banks and credit unions), for a federally-regulated subsidiary of a depository institution, or for an entity regulated by the federal Farm Credit Administration; (2) intra-family transactions; (3) the owner of the mortgaged property; (4) a licensed attorney acting on behalf of a client in connection with a broader representation of the client, if the attorney is not compensated by the lender or other party to the loan transaction; and (5) conditional on federal approval of this exemption, non-profit organizations that make zero-interest loans to low and moderate income households.

Subd. 3. Independent contractor loan processors or underwriters. Does not exempt independent contractors who are loan processors or underwriters from licensure. Requires independent contractors who are licensed to maintain a valid unique identifier in the nationwide registry.

Effective date: Provides for this section an effective date of July 31, 2010, or a later date approved by the federal Secretary of Housing and Urban development (HUD).

4 State license and registration application and issuance. Requires an applicant for a license to fill out a form prescribed by the commissioner of commerce. Gives the commissioner authority to enter into contracts and other relationships with the registry and to perform administrative tasks related to this act. Permits the commissioner to waive or modify, by rule or order, any requirement of this act and to establish new requirements if necessary. Requires applicants for a license to furnish specified information sufficient for a background check. Permits the commissioner to use the registry as a “channeling agent” through which to exchange information with the U.S. Department of Justice or any other source of information needed to administer this act.

5 Terms of license and fees. Provides that licenses for mortgage originators expire December 31 and renew January 1 each year. Specifies license fee of \$90, with a fee of \$50 for annual renewal.

- 6 **Issuance of license.** States the six findings, and sub-findings of some of them, that the commissioner must make before issuing a mortgage loan originator license under this act. The first three relate to character, the second three (including a written test) relate to qualifications, and the seventh one requires a surety bond.
- 7 **Prelicensing and relicensing education of loan originators.** Describes the basic elements of the required prelicensing education for mortgage originators, including courses that comprise eight hours on specific subjects listed in subdivision 1, taught in courses approved by the registry.
- 8 **Testing of loan originators.** Describes the written pre-licensing test required in section 5 above. It is developed by the registry. Specifies what happens if a person fails to pass the test.
- 9 **Standards for license renewal.** Specifies that the license of a mortgage loan originator will be renewed if the licensee still meets the standards in section 5, has satisfied the continuing education requirements in section 9, and has paid the renewal fee.
- 10 **Continuing education for mortgage loan originators.** Provides that the continuing education required for license renewal is eight hours each year of instruction approved by the registry, consisting of three hours on federal law, two hours on ethics, and two hours on lending standards for nontraditional mortgage loans.
- 11 **Authority to require license.** Requires the commissioner to require mortgage loan originators to be licensed and registered through the registry. Permits the commissioner to participate in the registry for that purpose. Requires the commissioner to develop the requirements necessary for the state to participate in the registry, including the payment of fees to apply for and renew licenses.
- 12 **Nationwide mortgage licensing system and registry information challenge process.** Requires the commissioner to develop a process by which mortgage loan originators can challenge information entered into the registry by the commissioner.
- 13 **Enforcement authorities, violations, and penalties.** Permits the commissioner, under chapter 14 (the Administrative Procedure Act), to take any of the enforcement actions listed in the section to enforce this act.
- 14 **Surety bond required.** Requires each mortgage originator's actions to be covered by a surety bond that reflects the dollar amount of loans originated by the person. An employee may be covered by the surety bond of the employee's employer, if the employer is subject to this act.
- 15 **Confidentiality.** Specifies the confidentiality status of information provided to the registry. Permits the commissioner to enter into agreements or sharing arrangements for information with other government agencies and associations of regulators, such as the CSBS. Includes other data-related confidentiality provisions.
- 16 **Investigation and examination authority.** Permits the commissioner to conduct investigations related to the commissioner's responsibilities under this act. Specifies the powers granted to the commissioner in great detail.

- 17 Prohibited acts and practices.** Lists 14 things that a licensed mortgage originator under this act is forbidden to do. Prohibits an individual who does only underwriting or loan processing to advertise that the individual will do anything that only a mortgage originator is allowed to do.
- 18 Mortgage call reports.** Requires mortgage licensees to provide reports of condition to the registry, complying with the form required by the registry.
- 19 Report to nationwide mortgage licensing system and registry.** Requires the commissioner to report violations of this act and enforcement actions to the registry.
- 20 Unique identifier.** Requires a mortgage originator's unique identifier (provided by the registry) on all forms, advertisements including business cards, Web sites, and other documents.
- 21 Effective Date.** Makes the act effective July 31, 2010. (This is subject to the more flexible effective date for section 3.)

Article 2: Conforming and Transitional Provisions Related to Minnesota Statutes, Chapter 58

- 1 Residential mortgage originator licensing requirements.** Eliminates current solvency options for mortgage originators, except for a surety bond described in section 3 of this article.
- 2 Application contents.** Same changes as in section 1. Also eliminates current requirement to keep a roster of information about individuals the company employs as mortgage originators. This will be done as part of the new regulatory mechanisms in article 1.
- 3 Residential mortgage originators.** Specifies a surety bond in the amount of \$100,000 as the only acceptable guarantee of financial responsibility for a mortgage loan originator as defined in article 1 (includes individuals). Requires that the bond cover all individuals who originate mortgage loans for a mortgage loan originator as employees or independent contractors. Says that the surety bond must cover punishment imposed by the commissioner and claims by customers for losses caused by the firm's violation of law or breaches of contracts. Requires that the amount of the surety bond be increased to as much as \$200,000 based upon the dollar value of closed residential loans as shown by the firm's mortgage call report.
- 4 Term of license.** Makes licensure for mortgage originators and servicers expire each year on December 31 and renew on January 1.
- 5 Amounts.** Specifies license fees each type of original license and renewal. The amounts are half or less of the current two-year license fees.
- 6 License renewal.** Makes changes to conform with sections 4 and 5.
- 7 Assessment.** Permits the commissioner to levy a one-time assessment on mortgage loan firms to cover licensing and registration costs under the new chapter 58A (article 1 of this bill). The assessment must be levied by September 30, 2010 and paid by November 30,

2010. This section expires December 1, 2010.

- 8 Residential mortgage originators and servicers; transitional license fees and terms.** Requires originators and servicers that have a July 31, 2011, expiration date to pay a prorated renewal fee of \$200 and \$100 respectively payable December 31, 2010, for an extension to December 31, 2011.
- 9 Appropriation.** Appropriates \$261,000 in fiscal year 2011 from the general fund to the commissioner of commerce for purposes of this act. Specifies a base appropriation of \$138,000 in fiscal 2012 and \$142,000 in fiscal 2013.
- 10 Repealer.** Repeals § 58.126, which imposes a continuing education requirement now replaced by chapter 58A in article 1 of this bill.
- 11 Effective date.** Makes this article effective July 31, 2010.