
ADVISORY BULLETIN

Lenders Compliance Group

January 26, 2009

HUD Approves CSBS / AARMR

SAFE Act Model Bill

The Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act or Act), which is Title V of the Housing and Economic Recovery Act of 2008 (HERA), requires every residential mortgage loan originator to be either federally registered or state licensed by August 1, 2009. The SAFE Act was enacted into law on July 30, 2008.

The Safe Act encouraged the establishment of a nationwide mortgage licensing system. In response, the Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators (AARMR) developed and maintain the Nationwide Mortgage Licensing System and Registry (NMLS).

- LCG Archive: [Nationwide Mortgage Licensing System \(NMLS\) – 01/17/08](#)

The two-prong purpose of the NMLS is to (1) provide uniform state-licensing application and reporting standards for residential mortgage loan originations, and (2) compile a comprehensive database by which such mortgage loan originators may be found and tracked.

The Act also requires states to adopt mortgage licensing requirements that meet the minimum standards specified in the law in lieu of HUD establishing and maintaining a licensing system for loan originators. If HUD determines that a state's mortgage loan originator licensing standards do not meet the minimum requirements of the Act, HUD must implement and administer a licensing system for that state.

Essentially, a loan originator in such a state would have to comply with the requirements of HUD's Safe Act-compliant licensing system for that state as well as with any applicable state requirements. This means, in effect, that a HUD license for a state would be valid for that state only, even if HUD must implement licensing systems in multiple states. And, if HUD determined that the NMLS is failing to meet the requirements and purposes of the Act, HUD must establish a system that meets the requirements of the Act. (While states are charged with enacting licensing standards that meet the requirements of the Safe Act, overall responsibility for interpretation, implementation, and compliance of the Act rests with HUD.)

Consequently, to assist states in complying with the requirements of the Safe Act, the CSBS and AARMR have developed model legislation. HUD has reviewed the [Model Bill](#) and found that it meets the minimum requirements of the Safe Act. [74 FR 312 – January 5, 2009.] Therefore, state legislation that follows the provisions of the model state law will be determined by HUD to be compliant with the Safe Act. The Model Bill is available on the Department of HUD's [SAFE Mortgage Licensing Act](#) web page, along with commentary on certain provisions of the statute.

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