

Bill as Introduced

SB 28 - AS INTRODUCED

2011 SESSION

11-0918
09/01

SENATE BILL **28**

AN ACT establishing an exemption from the licensing requirements for nondepository first mortgage bankers and brokers for persons providing loans for certain seller-financed transactions.

SPONSORS: Sen. Boutin, Dist 16; Sen. Bradley, Dist 3; Sen. Sanborn, Dist 7; Sen. De Blois, Dist 18; Sen. Gallus, Dist 1; Rep. Hunt, Ches 7; Rep. Dowling, Rock 5; Rep. Warden, Hills 7

COMMITTEE: Commerce

ANALYSIS

This bill establishes an exemption from the licensing requirements for nondepository first mortgage bankers and brokers for persons providing loans for certain seller-financed transactions.

Explanation: Matter added to current law appears in *bold italics*.
 Matter removed from current law appears [~~in brackets and struck through.~~]
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eleven

AN ACT establishing an exemption from the licensing requirements for nondepository first mortgage bankers and brokers for persons providing loans for certain seller-financed transactions.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Paragraph; Exemption From Licensing of Nondepository First Mortgage Bankers and
2 Brokers. Amend RSA 397-A:4 by inserting after paragraph V the following new paragraph:

3 VI. An owner of real property who in any 12 consecutive month period makes no more than
4 5 mortgage loans to purchasers of the property for all or part of the purchase price of the real estate
5 against which the mortgage is secured.

6 2 Effective Date. This act shall take effect July 1, 2011.

SB 28 - AS AMENDED BY THE SENATE

02/23/11 0343s

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CHAPTER 212
SB 28 - FINAL VERSION

02/23/11 0349s
25May2011... 1977h

2011 SESSION

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SB 28 - FINAL VERSION

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25May2011... 1977h

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09/01

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In the Year of Our Lord Two Thousand Eleven

AN ACT establishing an exemption from the licensing requirements for nondepository first mortgage bankers and brokers for persons providing loans for certain seller-financed transactions.

Be it Enacted by the Senate and House of Representatives in General Court convened:

- 1 212:1 New Paragraph; Exemption From Licensing of Nondepository First Mortgage Bankers and
2 Brokers. Amend RSA 397-A:4 by inserting after paragraph V the following new paragraph:
3 VI. An owner of real property who in any 12 consecutive month period makes no more than 3
4 mortgage loans to purchasers of the property for all or part of the purchase price of the real estate
5 against which the mortgage is secured; provided, however, that the final regulations relating to the
6 Secure and Fair Enforcement for Mortgage Licensing Act issued by the United States Department of
7 Housing and Urban Development shall supersede the provisions of this paragraph to the extent such
8 regulations conflict with the provisions of this paragraph.
9 212:2 Effective Date. This act shall take effect July 1, 2011.
10 Approved: June 27, 2011
11 Effective Date: July 1, 2011

Amendments

Commerce
February 15, 2011
2011-0343s
09/05

Amendment to SB 28

1 Amend RSA 397-A:4, VI as inserted by section 1 of the bill by replacing it with the following:

2

3 VI. An owner of real property who in any 12 consecutive month period makes no more than
4 3 mortgage loans to purchasers of the property for all or part of the purchase price of the real estate
5 against which the mortgage is secured.

Committee Minutes

**SENATE CALENDAR NOTICE
COMMERCE**

Senator Russell Prescott Chairman
 Senator Raymond White V Chairman
 Senator Tom De Blois
 Senator Matthew Houde
 Senator Andy Sanborn

For Use by Senate Clerk's Office ONLY	
<input type="checkbox"/>	Bill Status
<input type="checkbox"/>	Docket
<input type="checkbox"/>	Calendar
Proof: <input type="checkbox"/>	Calendar <input type="checkbox"/> Bill Status

Date: January 19, 2011

HEARINGS

Tuesday

1/25/2011

COMMERCE

LOB 102

10:00 AM

(Name of Committee)

(Place)

(Time)

EXECUTIVE SESSION MAY FOLLOW

10:00 AM SB28

establishing an exemption from the licensing requirements for nondepository first mortgage bankers and brokers for persons providing loans for certain seller-financed transactions.

Sponsors:

SB28

Sen. David Boutin
 Sen. John Gallus

Sen. Jeb Bradley
 Rep. John Hunt

Sen. Andy Sanborn
 Rep. Patricia Dowling

Sen. Tom De Blois
 Rep. Mark Warden

Commerce Committee Hearing Report

To: Member of the Senate

From: Patrick Murphy, *Legislative Aide*

Re: Hearing Report on SENATE BILL 28 establishing an exemption from the licensing requirements for nondepository first mortgage bankers and brokers for persons providing loans for certain seller-financed transactions.

Hearing Date: January 25, 2011

Members of the Committee Present:

Senator Prescott, Senator White, Senator Sanborn, Senator Houde

Members of the Committee Absent:

Senator De Blois

Sponsor(s):

Sen. Boutin, Dist 16; Sen. Bradley, Dist 3; Sen. Sanborn, Dist 7; Sen. De Blois, Dist 18; Sen. Gallus, Dist 1; Rep. Hunt, Ches 7; Rep. Dowling, Rock 5; Rep. Warden, Hills 7

What the bill does:

This bill establishes an exemption from the licensing requirements for nondepository first mortgage bankers and brokers for persons providing loans for certain seller-financed transactions.

Supporters of the bill:

Sen. Boutin, Dist 16; Sen. Bradley, Dist 3; Sen. Gallus, Dist 1; Representative Warden, Hills 7; Paula Moore; Eileen Landies, NH Liberty Alliance; Jeff Keller, NH Association of Realtors; Adam Schmidt, NH Manufactured & Modular Housing Association; Lynne Merrill, NH Association of Realtors

Those in opposition to the bill:

Celia Leonard, NH Banking Department;

Speaking to the bill:

The following people testified that they support the idea but would like some changes to the bill:

Jerry Little, NH Bankers Association; Jim Demers, NH Mortgage Banker & Brokers Association (NH MBBA); Kurt Strandson, NH MBBA; Peter Simmons, NH MBBA

Summary of testimony received:

Senator Boutin

- In 2008 Congress passed the Secure and Fair Enforcement for Mortgage Licensing Act (SAFE Act) which gave states one year to pass legislation requiring the licensure of mortgage loan originators according to national standards. The SAFE Act is designed to enhance consumer protection and reduce fraud in the residential mortgage industry.
- In 2009, NH passed HB 610 which placed NH in compliance with the SAFE Act. The NH Banking Commission has enforcement responsibilities.
- SB 28 is intended to address issues which many NH residents have faced when attempting to use seller financing to complete a real estate transaction. Frequently, a seller of his/her property will provide a loan, for a portion or the entire sale price, to the purchaser.
- The NH Banking Department has advised consumers that under the SAFE Act this type of transaction would not be permitted unless the person providing the loan was licensed, selling his/her residence or was making the loan to a direct relative.
- SB 28 would create an exemption which would permit up to five seller financed transactions in a twelve month period. This de minimis exemption would allow a number of the transactions which cannot be completed now while ensuring that the exemption will not undermine the current law. This would provide sellers with another opportunity to try and complete a real estate transaction. This would not only benefit sellers, it also benefits the NH real estate market as more transactions will be completed.
- Read a letter sent to the U.S. Department of Housing and Urban Development (HUD) by Congressmen Frank and Bachus, the primary authors of the SAFE Act. At the request of committee members a copy of the letter will be distributed to committee members.

Rep. Mark Warden (Co-sponsor)

- The law that is currently in place was rushed through in order to comply with federal regulations. In NH we believe property rights are sacrosanct. Included is the ability to sell or give the property away. This bill would help in making sure people have the freedom to take part in real estate transactions.
- Informed the Committee that he is also a real estate agent. There are limited finance options currently available. This might also help with condo developers because it is currently nearly impossible to get financing.

Paula Moore

- Real estate agent, had a deal that fell apart because a lack of ability to use seller financing. If seller financing had been available this deal would have gone through. The Title Company involved said to stay away from seller financing. Believes this legislation will solve problems like this.
- In response to questions from the committee relative to exemptions, the witness responded that the exemption is for primary residences only.

Celia Lenard, NH Banking Department

- The Banking Department recognizes this is an important issue. The Department is not opposed to the idea but they are opposed to this language. The SAFE Act is the law of the land but the current federal law does require a different way of going about addressing this issue.
- Following up on the previous witness, commented that if financing was for land only they would be exempt.
- Senator Houde pointed out to the Committee that he is a co-sponsor of a bill in the House that would address this exact issue in a different way. Also asked the Department what they believe HUD will do to address these issues and what the Department believes is the best way to address these issues.
- While there is no way to guess what HUD will do, the Department believes that HUD does understand the concerns and is working through them. Believes this bill will engender additional and murky regulation, not less.
- The Department believes this bill will engender additional and murky regulation, not less regulation. The best way to address this is to make sure NH remains in compliance with federal guidelines while finding away to address the issue.
- In response to questions from the Committee the witness explained that there are current exemptions to the SAFE Act, and they are listed in RSA 397-A: 4. There are also definitional exemptions. While the department is active on the federal level to help develop solutions, they are not aware of any avenue to seek federal waivers for undue hardship.

Jerry Little, NH Bankers Association

- Seller-financing of mortgages was not an issue for the traditional banking industry when it was allowed prior to Congressional passage of the federal SAFE Act and its adoption in NH. We are comfortable with the idea of enabling seller-financing in NH once again, but ask you to consider all of the implications of doing so with the blanket exemption proposed in SB 28.
- The primary authors of the SAFE Act, in a letter, have urged HUD to consider a de minimis standard for registration and licensing requirements under the Act. The Committee may want to consider the model outlined in the last paragraph of the letter, which recommends that such individuals still be required to register with the NMLS to get a unique identifier, which would create a mechanism to assure that the de minimis number of no more than five seller-financed transactions per year are made.
- Suggested that the Committee consider whether the entire effect of creating a de minimis exemption from all of NH RSA 397-A, as SB 28 would do, is the committees intent.
- SB 28 would also create an exemption from RSA 397-A:2, II and III, which are the broad requirements for mortgage lenders in NH to comply with all other state and federal laws regarding mortgage lending, and from RSA 397-A: 1, definitions.
- There is currently an exemption from the SAFE Act in RSA 397-A: 4, IV for, "An individual who offers or negotiates terms of a residential mortgage loan secured by a dwelling that served as the individual's residence," SB 28 is clearly not directed at these already permissible personal transactions.

- The full effect of SB 28 appears to be creation of an entirely unregulated mortgage business entity in NH.
- Suggested amending the bill to create a de minimis lender registration process as suggested in the Frank-Bachus letter, and clarify that de minimis registration still requires compliance with other state and federal mortgage laws.
- In response to questions from the Committee, the witness responded that current exemptions are found in RSA 397-A: 4 and that prior to the SAFE Act there was no way to monitor this activity which is why the SAFE Act was created.

Lynne Merrill, NH Association of Realtors

- When the idea of bringing a bill forward to address the SAFE Act was mentioned the reaction from realtors was that we need to be careful not to fall out of compliance with federal regulations.
- The SAFE Act does not apply to consumers buying residential property as a primary residence
- The primary reason for the SAFE Act was to regulate mortgage initiators. More calls come in to the Association about compliance with the SAFE Act than any other issue. The current setup does stop sales from going through. The Banking Department has interpreted the SAFE Act and we disagree with their interpretations. Exemptions are needed because deals are falling through. There will only be more transactions that are affected by the SAFE Act as the housing market recovers. Seller financing regulation would not change.
- NH will not fall out of federal compliance if this is passed. Texas already has seller finance exemption and this bill is modeled after the Texas statute.

Peter Simons – Mortgage Bankers Association

- Supports the idea of this legislation if it can be done the right way. Wants to make sure that we still comply with federal regulations.
- Texas has done this and Mississippi is looking at doing this. We could use the Mississippi language in this bill to ensure that NH doesn't fall out of compliance.
- Would support making that change.
- Would like to work with the Department and Committee on this language.
- In response to a question from the Committee about if his suggested language changes were not included, would he oppose the bill, the witness responded that he would not oppose it, but is concerned with falling out of federal compliance.

Jeff Keeler - NH Real Estate Association

- Described his situation where he is currently financing his son's mortgage because of the state of financing these days. Wants to see provisions that allow individuals to have the ability to finance. Mentioned that as an investor he wouldn't have a problem having to be licensed.

Jim Demers

- If this bill passed in this format and HUD came forward with rules that put NH out of compliance and we didn't have time in the legislative calendar we could fall out of compliance and we would have a problem.
- Interested in finding language to deal with this issue.
- If 5 isn't the right number, maybe it's 3 if that is what it takes to stay in compliance. Supports the 5 number but also wants to stay in compliance.
- Wants one week to come up with language.
- In response to questions from the Committee the witness responded that there has not been any fallout from the Texas law yet because HUD hasn't come out with their guidance yet.

Funding:

None

Action:

Pending

Speakers

Testimony

Testimony for Senator David Boutin on SB 28

Senate Commerce Committee Testimony of Senator David Boutin on SB 28 - establishing an exemption from the licensing requirements for nondepository first mortgage bankers and brokers for persons providing loans for certain seller-financed transactions.

January 25, 2011

Good Morning Mr. Chair and members of the Committee. For the record, my name is David Boutin and I represent District 16 in the NH State Senate. I come before you to introduce SB 28. I was asked to introduce the legislation on behalf of the New Hampshire Association of Realtors.

By way of background, in 2008 Congress passed the Secure and Fair Enforcement for Mortgage Licensing Act (SAFE Act) which gave states one year to pass legislation requiring the licensure of mortgage loan originators according to national standards. The SAFE Act is designed to enhance consumer protection and reduce fraud in the residential mortgage industry. In 2009, New Hampshire passed HB 610 which placed New Hampshire in compliance with the national SAFE Act. The NH Banking Commission has enforcement responsibilities in the state.

SB 28 is intended to address issues which many New Hampshire residents have faced when attempting to use seller financing to complete a real estate transaction. Frequently, a seller of his/her property will provide a loan, for a portion or the entire sale price, to the purchaser. The NH Banking Department has advised consumers that under the SAFE Act this type of transaction would not be permitted unless the person providing the loan was licensed, selling his/her residence or was making the loan to a direct relative.

SB 28 would create an exemption which would permit up to five seller financed transactions in a twelve month period. This de minimis exemption would allow a number of the transactions which cannot be completed now while ensuring that the exemption will not undermine the current law. This would provide sellers with another opportunity to try and complete a real estate transaction. This would not only benefit sellers, it also benefits the New Hampshire real estate market as more transactions will be completed.

I would be glad to attempt to answer any questions however I understand there are members of the NH Association of Realtors here who plan to testify. The Committee may want to address their more technical questions to members of the Association.

Thank you.

SB 28, An Act establishing an exemption from the licensing requirements for nondepository first mortgage bankers and brokers for persons providing loans for certain seller-financed transactions.

**Testimony of the New Hampshire Bankers Association
Presented by Gerald H. Little, President
Before the Senate Commerce Committee
Tuesday, January 25, 2011**

Chairman Prescott and members of the Senate Commerce Committee, my name is Jerry Little. I am President of the New Hampshire Bankers Association, a statewide, not-for-profit trade association representing the traditional, FDIC-insured banking industry in our state.

I am not here to testify either for or against SB 28. Seller-financing of mortgages was not an issue for the traditional banking industry when it was allowed prior to Congressional passage of the federal SAFE Act and its adoption here in New Hampshire. However, the general health and safety of the mortgage market in the state is very important to us, which is why we offer these thoughts regarding SB 28 as proposed. In short, we're comfortable with the idea of enabling seller-financing in New Hampshire once again, but ask you to consider all of the implications of doing so with the blanket exemption proposed in SB 28.

A letter dated July 22, 2010 from Congressional Representatives Barney Frank and Spencer Bachus, the self-described "primary authors" of the federal SAFE Act, urges the Secretary of the U.S. Department of Housing and Urban Development to, among other things, enable states to, "consider a de minimis standard for registration and licensing requirements under the Act."

Should New Hampshire choose to do this, you may want to consider the model outlined in the last paragraph of the letter, which recommends that such individuals still be required to register with the NMLS to get a unique identifier, which would create a mechanism to assure that the de minimis number of no more than five seller-financed transactions per year are made.

We also suggest that the Committee consider whether the entire effect of creating a de minimis exemption from all of NH RSA 397-A, as proposed in SB 28 as presented, is your intent. As we read SB 28, it would also create an exemption from RSAs 397-A: 2, II and III, which are the broad requirements for mortgage lenders in New Hampshire to comply with all other state and federal laws regarding mortgage lending, and from 397-A: 1, Definitions.

Since there is already an exemption from the SAFE Act licensing requirements at NH RSA 397-A: 4, IV for, "An individual who offers or negotiates terms of a residential mortgage loan secured by a dwelling that served as the individual's residence," SB 28 is clearly not directed at these already permissible personal transactions.

Therefore, the full effect of SB 28 appears to be creation of an entirely unregulated mortgage business entity in New Hampshire.

We would suggest that, rather than pursue a new exemption to NH RSA 397-A, you consider amending the bill to:

- Create a de minimis lender registration process as suggested in the Frank-Bachus letter, and
- Clarify that de minimis registration still requires compliance with other state and federal mortgage laws.

U. S. House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

July 22, 2010

The Honorable Shaun Donovan
Secretary
U.S. Department of Housing and Urban Development
451 Seventh Street, SW
Washington, DC 20410

Dear Mr. Secretary:

As the primary authors of the Secure and Fair Enforcement for Mortgage Licensing Act (the S.A.F.E. Act or the Act) in the U.S. House of Representatives, we look to continue a dialogue clarifying Congressional intent with respect to the Act. Specifically this letter addresses the implementation date for state S.A.F.E. Act laws, the application of S.A.F.E. Act to the manufactured housing industry and a de minimis standard for state S.A.F.E. Act licensing and registration.

Guidance on Implementation Date

An area of concern is the date of implementation of S.A.F.E. Act requirements. As you know, Section 1507(a) of the statute requires implementation of a Nationwide Mortgage Licensing System and Registry within one year of the date of enactment. Further, Section 1508(a) gives HUD backup authority to establish a system for the licensing and registration of loan originators in States where such a system is not in place and in compliance with the S.A.F.E. Act within one year of the date of enactment for States whose legislature meets annually or within two years for States whose legislatures meet biennially. As a result, many states must have a licensing system in place by July 31, 2010. Given the fact that HUD has yet to publish a final rule addressing implementation of the S.A.F.E. Act, HUD should provide prompt and clear guidance for states where there is some debate or uncertainty as to the need for the registration and licensing of certain individuals.

Unique Status of Manufactured Housing Retailers

We believe that it is important to acknowledge that the manufactured housing industry is uniquely affected by the requirements of the Act. Accordingly, we have concerns that the industry not be adversely affected in ways that are inconsistent with the purposes of the S.A.F. E. Act. Such purposes include enhanced consumer protections and uniform and streamlined licensing and reporting requirements for mortgage loan originators. We urge HUD to provide guidance about the various concerns of the industry, which include whether certain activities performed by manufactured housing retailers are administrative or clerical in nature (and therefore not covered under the Act) or undertaken for compensation or gain (as defined by the Act) and dual and additional lender licenses (including educational and testing requirements) for personal property finance lenders. We also are concerned that the current structure utilized by the Nationwide Mortgage Licensing System (NMLS) allow for personal property lenders or the retail sales entity (the typical employer of manufactured housing retailers) to sponsor such retailers as loan originators.

De Minimis Standard

We think it is permissible for States to consider a de minimis standard for registration and licensing requirements under the Act. Several states allow for a de minimis standard that exempts seller financed and/or personal investment loan origination where there are five or fewer loans annually. We believe that these types of standards are consistent with S.A.F.E. Act language that requires consideration of the commercial context in which mortgage loan origination activities are undertaken. We also note that such an exemption would be in line with the federal banking agencies' draft final rule implementing the S.A.F.E. Act, (74 FR 27385) that pursuant to language in the Act, exempts from federal registration employees of federally regulated entities who originate five or fewer loans per year.

In addition, we believe that states may consider S.A.F.E. Act de minimis standard language for an individual who acts as a loan originator exclusively for a single federally chartered depository institution. However, we strongly recommend that such individuals also be required to register with the NMLS and obtain a unique identifier (we recognize that operating protocols for NMLS may need to be modified to accommodate this type of registration). Further, in implementing this de minimis exception, we urge the adoption of a reporting process for such individuals to ensure the number of loans originated is at or below the de minimis threshold during any 12 month period and that any originator who wishes to exceed such threshold may only do so after obtaining a loan originator license from the state. Finally, we also strongly recommend that any de minimis standard or other exemptions from the provisions of the Act be revisited by states on an annual basis.

Thank you for your consideration of our views.


BARNEY FRANK
Chairman


SPENCER BACHUS
Ranking Member



Douglas B. Foster
Commissioner

TEXAS DEPARTMENT OF SAVINGS & MORTGAGE LENDING

WRITTEN NOTICE FROM THE COMMISSIONER PURSUANT TO SECTION 156.404 OF THE TEXAS FINANCE CODE

Re: Seller Financing de minimis exemption to individuals licensed under Chapter 156

Texas, in 156.202 (a) (3) of the Finance Code (the "Code"), has had a statutory de minimis exemption from licensure under Chapter 156 for "an owner of real property who in any 12-consecutive-month period makes no more than five mortgage loans to purchasers of the property for all or part of the purchase price of the real estate against which the mortgage is secured" since 2007. The Department has received no consumer complaints regarding this exemption.

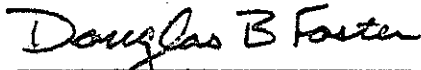
In the 81st legislative session, HB 10 was passed and enacted as Chapter 180 of the Code. This Chapter, the Texas Safe and Fair Enforcement of Mortgage Licensing Act ("TX SAFE Act"), does not contain the de minimis exemption and, therefore, could be considered to be in conflict with Chapter 156. However, House Bill 2774, which amended § 156.202, but which left § 156.202 (a) (3) intact, was the last bill passed by the 81st legislative session, and therefore, if in conflict with House Bill 10, House Bill 2774 prevails as provided for in Government Code § 311.025.

Further Rule 80.1 (6)(B) (ii), provided for the de minimis exemption until it was repealed by the Finance Commission at the department's request in response to strict HUD interpretations on other issues provided in January, 2010. Subsequently, HUD has verbally indicated that states should enforce their specific state statutes even if in variance with the model SAFE act language, if the state takes a reasonable approach and can justify the variance. Additionally, Rep. Barney Frank, Chair of the House Committee on Financial Services and Rep. Spencer Bachus, Ranking Member on the same committee, who were the primary authors of the federal SAFE Act, issued a letter July 22, 2010 stating they "think it is permissible for States to consider a de minimis standard for registration and licensing requirements under the Act.....".

The Department has spoken with numerous citizens directly and staff members from the offices of thirteen legislators whose constituents are economically impacted by the loss of a de minimis exemption from licensure. Seller financing in part or in whole has historically been an important part of facilitating real estate sales transactions. To depart from long standing Texas de minimis tradition in the midst of the current credit restrictions and a market where sellers are having difficulty selling homes would run counter to the efforts of stabilizing the housing market and reviving the economy.

HUD's final rules have not been published and with the passing of the Dodd Frank Wall Street Reform and Consumer Protection Act, could be delayed longer than originally expected due to the creation and transfer of oversight authority to the Financial Consumer Protection Bureau.

Therefore, and pursuant to the authority granted to the Commissioner in § 156.404, written notice is hereby given, that the Department will continue to allow the exemption found in § 156.202(a) (3), until or unless there is a subsequent statutory amendment or a rule adopted under this chapter, in which case said amendment or rule will supersede. Further, should HUD or its successor determine that no de minimis is appropriate under the SAFE Act, this written notice will have no effect.




Douglas B. Foster
Commissioner

August 12, 2010

In connection with the above notice concerning the de minimis exemption for seller financed transactions issued on August 12, 2010, this notice is issued to clarify questions which have arisen concerning compliance with federal regulations.

The position expressed in the notice is that an individual who engages in no more than five mortgage loans in a rolling twelve month period is exempt from the Department's licensing requirements. The Department holds the position that exemption from licensing does not relieve that individual from complying with all applicable laws and rules pertaining to disclosures required by RESPA, new GFE, TILA, APR, new HOEPA, High Priced Loans, etc and the timing of each disclosure and rules.



Douglas B. Foster
Commissioner

August 17, 2010

TITLE XXXV

BANKS AND BANKING; LOAN ASSOCIATIONS; CREDIT UNIONS

CHAPTER 397-A

LICENSING OF NONDEPOSITORY FIRST MORTGAGE BANKERS AND BROKERS

Section 397-A:2

397-A:2 Application of Chapter. –

I. This chapter shall provide for the department's regulation of persons that engage in the business of offering, originating, making, funding, or brokering mortgage loans from the state of New Hampshire or mortgage loans secured by real property located in the state of New Hampshire.

II. Any mortgage loan made or brokered under the provisions of this chapter shall be further governed by any other applicable laws of the state of New Hampshire and by the Consumer Credit Protection Act, as amended (15 U.S.C. section 1601 et seq.).

III. Persons subject to or licensed under this chapter shall abide by applicable federal laws and regulations, the laws and rules of this state, and the orders of the commissioner. Any violation of such law, regulation, order, or rule is a violation of this chapter.

IV. The fact that a person is licensed or registered in the state of New Hampshire under this chapter does not constitute a finding that the commissioner has passed in any way upon the merits or qualifications of such person or that the commissioner has recommended or given approval to any person. It is unlawful to make, or cause to be made, to any prospective purchaser, customer, or client any representation inconsistent with the provisions of this paragraph.

V. Any license fee required by this chapter shall be paid before a license may become effective.

VI. It is unlawful for any person, in connection with the solicitation, offer, closing, or servicing of a mortgage loan, directly or indirectly:

(a) To employ any device, scheme, or artifice to defraud;

(b) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading; or

(c) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

VII. It is unlawful for any person to make or cause to be made in any document filed under this chapter or in any proceeding under this chapter any statement which is, at the time and in the light of the circumstances under which it is made, false or misleading in any material respect or, in connection with such statement, to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading.

VIII. Any condition, stipulation, or provision binding any person to waive compliance with any provision of this chapter or any rule or order under this chapter is void.

Source. 1987, 339:1. 1995, 57:1. 2004, 139:12. 2005, 255:2, eff. Sept. 12, 2005. 2008, 205:16, eff. Aug. 15, 2008. 2009, 290:15, eff. July 31, 2009.

Committee Report

New Hampshire General Court - Bill Status System

Docket of SB28

Docket Abbreviations

Bill Title: establishing an exemption from the licensing requirements for nondepository first mortgage bankers and brokers for persons providing loans for certain seller-financed transactions.

Official Docket of SB28:

Date	Body	Description
1/6/2011	S	Introduced and Referred to Commerce, SJ 2 , Pg.25
1/19/2011	S	Hearing: 1/25/2011, Room 102, LOB, 10:00 a.m.; SC8
2/15/2011	S	Committee Report: Ought to Pass with Amendment # 2011-0343s , 2/23/11; SC12
2/23/2011	S	Committee Amendment 0343s, AA, VV; SJ 7 , Pg.66
2/23/2011	S	Ought to Pass with Amendment 0343s, MA, VV; OT3rdg; SJ 7 , Pg.67
2/23/2011	S	Passed by Third Reading Resolution; SJ 7 , Pg.77
3/16/2011	H	Introduced and Referred to Commerce and Consumer Affairs; HJ 28 , Pg.882
3/22/2011	H	Public Hearing: 4/12/2011 10:00 AM LOB 302 Banking/Business Div ==Work Session May Follow==
4/12/2011	H	Subcommittee Work Session: 4/21/2011 10:00 AM LOB 302 Banking/Business Div
4/12/2011	H	==CANCELLED== Executive Session: 4/21/2011 1:15 PM LOB 302
5/3/2011	H	Subcommittee Work Session: 5/10/2011 10:00 AM LOB 302 Banking/Business Div
5/3/2011	H	==CANCELLED== Executive Session: 5/10/2011 11:30 AM LOB 302 ==TIME CHANGE (Orig 1:30 PM)==
5/11/2011	H	Subcommittee Work Session: 5/17/2011 10:00 AM LOB 302 Banking/Business Div
5/11/2011	H	Executive Session: 5/17/2011 1:30 PM LOB 302
5/18/2011	H	Committee Report: Ought to Pass with Amendment #1977h for May 25 (Vote 17-0; CC); HC 41 , PG.1390-1391
5/18/2011	H	Proposed Committee Amendment # 2011-1977h ; HC 41 , PG.1405-1406
5/25/2011	H	Amendment #1977h Adopted, VV; HJ 46 , PG.1579
5/25/2011	H	Ought to Pass with Amendment #1977h: MA VV; HJ 46 , PG.1579
6/8/2011	S	Sen. Prescott Concurs with House Amendment #1977h, MA, VV; SJ 20 , Pg.550
6/8/2011	H	Enrolled
6/8/2011	S	Enrolled
6/27/2011	S	Signed by the Governor on 06/27/2011; Effective 07/01/2011; Chapter 0212

NH House

NH Senate

Other Referrals

COMMITTEE REPORT FILE INVENTORY

SB 28 ORIGINAL REFERRAL

_____ RE-REFERRAL

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1. THIS INVENTORY IS TO BE SIGNED AND DATED BY THE COMMITTEE AIDE AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
 2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
 3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
 4. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

- DOCKET (Submit only the latest docket found in Bill Status)
- COMMITTEE REPORT
- CALENDAR NOTICE
- HEARING REPORT
- PREPARED TESTIMONY AND OTHER SUBMISSIONS HANDED IN AT THE PUBLIC HEARING

SIGN-UP SHEET(S)

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

- AMENDMENT # 03435 _____ - AMENDMENT # _____
_____ - AMENDMENT # _____ _____ - AMENDMENT # _____

ALL AVAILABLE VERSIONS OF THE BILL:

AS INTRODUCED _____ AS AMENDED BY THE HOUSE
 FINAL VERSION AS AMENDED BY THE SENATE

OTHER (Anything else deemed important but not listed above, such as amended fiscal notes):

DATE DELIVERED TO SENATE CLERK

8-5-11

By:

Patrick Murphy
COMMITTEE AIDE