

Date of Hearing: June 9, 2014

ASSEMBLY COMMITTEE ON BANKING AND FINANCE

Roger Dickinson, Chair

SB 1459 (Committee on Banking and Financial Institutions) – As Amended: April 21, 2014

SENATE VOTE: 36-0

SUBJECT: Mortgage loan originators: educational requirements.

SUMMARY: Requires an applicant for a mortgage loan originator (MLO) license to complete 2 hours of approved education related to relevant California law and regulation. Specifically, this bill:

- 1) Requires a licensed MLO to complete at least one hour of continuing education related to relevant California law and regulations.
- 2) Specifies that an applicant for a MLO license shall take a test that is deemed acceptable by the Nationwide Mortgage Licensing System and Registry (NMLSR).

EXISTING FEDERAL LAW

- 1) Provides for the Secure and Fair Enforcement for Mortgage Licensing (SAFE) Act, pursuant to Title V of the Housing and Economic Recovery Act of 2008. The SAFE Act requires all states to license and register their MLOs, as defined, through a nationwide organization called the NMLSR. Any state that failed to implement an MLO licensing system in compliance with the SAFE Act by July 30, 2009, risked direct intervention by the U.S. Department of Housing and Urban Development (HUD). Under the SAFE Act, HUD was authorized to establish and maintain an MLO licensing system in any state that failed to voluntarily comply with the federal SAFE Act.
- 2) Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act, transferred authority for implementing the SAFE Act from HUD to the federal Consumer Financial Protection Bureau.

EXISTING STATE LAW

- 1) Conforms California's Real Estate Law, California Finance Lenders Law (CFLL), and California Residential Mortgage Licensing Act (CRMLA) to the SAFE Act, thus preserving California's ability to continue regulating mortgage loan origination by nondepository institutions operating in California.
- 2) Permits companies that are not required to hold a lending license by California, but whose employees meet the SAFE Act definition of an MLO, to apply to the Department of Business Oversight (DBO) for exempt company registrations. Those exempt company registrations allow the employees of those companies to be eligible to obtain MLO licenses.

FISCAL EFFECT: None

COMMENTS:

The federal SAFE Act and California's implementing legislation generally requires all individuals who meet the SAFE Act definition of an MLO to obtain a license from the state to undertake those activities, if they work for a nondepository institution regulated by the state, or to register with the NMLSR, if they work for a depository institution that is state- or federally-regulated.

In California, employees of CFLL licensees and CRMLA licensees must obtain an MLO license from DBO if they wish to engage in mortgage loan origination activities. Bureau of Real Estate (BRE) licensees who engage in mortgage loan origination must obtain an MLO license endorsement from BRE. This bill would modify the education requirements applicable to applicants for and recipients of DBO-issued MLO licenses. It would not modify the education requirements applicable to applicants for and recipients of BRE-issued MLO license endorsements, as BRE MLO licensees must be licensed as a real estate salesperson or real estate broker. Both the real estate salesperson and real estate broker licenses require considerable pre-licensing education and continuing education on California-specific laws and regulations.

The primary motivation of this bill is that NMLSR most likely will move toward a uniform state test that would serve all states through a National Test with Uniform State Content that would test applicants on their knowledge of state-related content in the context of the SAFE Act and the Conference of State Bank Supervisors/American Association of Residential Mortgage Regulators Model State Law. This testing regime would not test applicants on specific state laws. SB 1459 will require applicants and those seeking a MLO license renewal to take a test relative to specific California laws. DBO plans to implement regulations to specify the exact content of the test.

Finally, SB 1459 makes a technical clarification to bring the CFLL and CRMLA in line with the California Real Estate Law by allowing test that are deemed acceptable by NMLSR to fulfil the testing requirement.

REGISTERED SUPPORT / OPPOSITION:Support

California Mortgage Bankers Association (CMBA)

Opposition

None on file.

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