

Date of Hearing: June 21, 2010

ASSEMBLY COMMITTEE ON BANKING AND FINANCE

Mike Eng, Chair

SB 1137 (B.F. & I.) – As Amended: June 3, 2010

SENATE VOTE: 35-0

SUBJECT: Mortgage Lending

SUMMARY: Makes several technical changes to the statutes enacted to conform to the requirements of the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act). Specifically, this bill:

- 1) Provides that a California Finance Lender (CFL) that employs one or more mortgage loan originators and that arranges but does not make residential mortgage loans, shall continuously maintain a minimum net worth of least \$50,000.

EXISTING FEDERAL LAW, provides for the SAFE Act, pursuant to Title V of the provisions of the Housing and Economic Recovery Act of 2008 (HR 3221; Public Law 110-289). The SAFE Act required all states to license and register their mortgage loan originators, as defined, through a nationwide organization called the Nationwide Mortgage Licensing System and Registry. Any state that failed to implement a mortgage loan originator 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 is authorized to establish and maintain a mortgage loan originator system in any state that fails to voluntarily comply with SAFE.

EXISTING STATE LAW, pursuant to SB 36 (Calderon), Chapter 160, Statutes of 2009, conforms California's Real Estate Law, Finance Lenders Law, and Residential Mortgage Lending Act to the SAFE Act, thus preserving California's ability to continue regulating mortgage loan origination by non-depository institutions operating in California

FISCAL EFFECT: None

COMMENTS:

This bill is intended to provide clean-up to legislation passed last year to ensure that California law complies with provisions of the SAFE Act. The SAFE Act required all states to individual license mortgage loan originators and to ensure their registration with a nationwide database. Currently, the Department of Corporations (DOC) and Department of Real Estate are engaged in establishing rules and regulations to carry out the provisions of SAFE.

An additional provision of this bill concerns the net worth requirements of CFL brokers. Under current law a CFL broker whether making or arranging mortgage loans is required to maintain \$250,000 of net worth at all times. This bill would provide a finer delineation of this requirement by allowing a CFL broker that employs one or more mortgage loan originators that only arranges mortgage loans to maintain a net worth of \$50,000. The reasoning behind this change is that smaller CFL licensees that only arrange loans, are losing their licenses due to the

net worth requirement coupled with the current economic downturn. While the net worth requirements are being changed, CFL licensees would continue to have to maintain a surety bond of \$25,000. Additionally, DOC expects to promulgate regulations, to ensure that minimum net worth requirements for CFL licensees employing individuals with mortgage loan originator licenses appropriately reflect the gross revenue derived by those licensees from mortgage loan origination activities. Committee staff and the author's office intend to monitor the development of these regulations to ensure they provide adequate flexibility and protection of the public's general welfare.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

Analysis Prepared by: Mark Farouk / B. & F. / (916) 319-3081