MORTGAGE LOAN ORIGINATOR
FREQUENTLY ASKED QUESTIONS

The SAFE Act

Q. What is the Secure and Fair Enforcement for Mortgage Licensing Act of 2008?
A. The Secure and Fair Enforcement for Mortgage Licensing Act of 2008 ("SAFE Act") was passed as Title V of the Housing and Economic Recovery Act of 2008 which was signed by President Bush on July 30, 2008.

Q. What does the SAFE Act require?
A. The SAFE Act mandates that states enact a licensing system for individual mortgage loan originators ("MLO(s)") by July 30, 2009. If a state fails to do so, the United States Department of Housing and Urban Affairs ("HUD") is required to establish a licensing regime for MLOs in that state, unless HUD grants that state an extension.

Q. Will Nebraska license mortgage loan originators or allow HUD to license loan originators who do business in Nebraska?
A. On April 22, 2009, Governor Heineman signed LB 328 which implemented the requirements of the SAFE Act. Therefore, the Department is in the process of establishing the licensing system for loan originators who do business in Nebraska. LB 328 made major modifications to the Mortgage Banker Registration and Licensing Act and it was renamed the Residential Mortgage Licensing Act ("RMLA") to reflect the addition of MLO licensing. A copy of the RMLA is available here.

Nationwide Mortgage Licensing System & Registry

Q. What is the Nationwide Mortgage Licensing System?
A. The Nationwide Mortgage Licensing System ("NMLS") is an online mortgage licensing database created by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators, which are organizations comprised of state mortgage regulatory agencies.

Q. The SAFE Act uses the term “Nationwide Mortgage Licensing System and Registry”. Is that the same system as the NMLS?
A. Yes. The terminology describes the same system and is interchangeable.

Q. Can I submit an application to multiple states using the NMLS?
A. Yes. The NMLS is designed to allow an applicant to submit an application to multiple states with one form, provided that the applicant pays all of the relevant fees.

Q. How many states are on the NMLS?
A. New states are joining all of the time. All states which border Nebraska will be on the system by January 2010. Given the requirements of the SAFE Act, it is anticipated that nearly every state will be on the system in the next couple of years.
Q. **What is the website address for the NMLS?**
A. The NMLS has established the NMLS Resource Center website at this address, [http://www.stateregulatoryregistry.org/NMLS/AM/Template.cfm?Section=Home3](http://www.stateregulatoryregistry.org/NMLS/AM/Template.cfm?Section=Home3). The NMLS Resource Center contains important information concerning education, testing, and background check requirements. The Department would strongly encourage any individual who wishes to apply for a MLO license to review the information on the NMLS Resource Center.

**Mortgage Loan Originators**

Q. **What is the definition of a mortgage loan originator?**
A. A mortgage loan originator is an individual who for compensation or gain or in the expectation of compensation or gain (i) takes a residential mortgage loan application or (ii) offers or negotiates terms of a residential mortgage loan.

Q. **I live and work in a state other than Nebraska and am licensed in that state. Must I obtain a license in Nebraska to originate Nebraska residential mortgage loans?**
A. Yes. The RMLA requires that an individual obtain a license in Nebraska prior to originating loans secured by a dwelling located in Nebraska. This is consistent with the position that HUD stated in its December 24, 2008 interpretative letter in which it stated that “an individual must comply with licensing and registry requirements of a state in order to engage in the business of a loan originator with respect to any residential property in that state, regardless of whether the individual or the prospective borrower is located in the state.”

Q. **What is the definition of a residential mortgage loan application?**
A. The term “application” includes any request from a borrower, however communicated, for an offer (or in response to a solicitation of an offer) of residential mortgage loan terms, as well as the information from the borrower that is typically required in order to make such an offer. The term “taking an application” means the receipt of an application for the purpose of deciding whether or not to extend the requested offer of a loan to the borrower, whether the application is received directly or indirectly from the borrower. This interpretation is consistent with HUD’s interpretation contained in its December 24, 2008 interpretive letter.

Q. **I work in a call center where I contact individuals who own a dwelling located in Nebraska and solicit them to apply for a residential mortgage loan. Must I be licensed to make these solicitations?**
A. Yes. Section 45-727 provides that any individual who conducts the activities of a mortgage loan originator, or offers to conduct the activities of a mortgage loan originator must obtain a license. Section 45-702 defines the term “offer” to include a solicitation. Therefore, since you are soliciting customers to submit a residential mortgage loan application, you must be licensed as a MLO prior to contacting such individuals.

**Registered Mortgage Loan Originators**

Q. **I work as a mortgage loan originator for a bank, must I obtain a MLO license?**
A. No. The SAFE Act mandates that mortgage loan originators, who are employees of a depository institution such as a bank, savings bank, or credit union, must register as a MLO.
through a system established by the federal banking agencies. A registered MLO is exempt from the RMLA when he or she originates residential mortgage loans on behalf of the depository institution. The NMLS Resource Center contains information concerning the registration of mortgage loan originators who work for depository institutions.

Q. I am an employee of a bank subsidiary. Do I need to obtain a mortgage loan originator license?
A. The SAFE Act mandates that employees of a bank subsidiary must register with the federal registration system if the subsidiary is “owned and controlled” by the depository institution and if the subsidiary is regulated by a federal banking agency. The subsidiary must meet both prongs of the definition for its loan originators to qualify for the federal registry; otherwise its MLOs must obtain state licenses.

Q. I work part time for a bank and part time for a mortgage banker. Since I am a registered MLO for my mortgage loan origination activities conducted at the bank, am I exempt from obtaining a MLO license when I originate residential mortgage loans for the mortgage banker?
A. No. The exemption from the RMLA for registered MLOs only applies when the MLO is acting on behalf of the depository institution or subsidiary. If a MLO also originates residential mortgage loans for a mortgage banker, the exemption does not apply and the MLO must obtain a MLO license. Therefore, in this situation the MLO would need to be both registered in the federal registration system and licensed by the Department.

Loan Processors and Underwriters

Q. What is the definition of a loan processor or underwriter?
A. Loan processor or underwriter means an individual who (a) performs clerical or support duties as an employee at the direction of and subject to the supervision and instruction of a person licensed, or exempt from licensing, under the Residential Mortgage Licensing Act or Nebraska Installment Loan Act and (b) does not represent to the public, through advertising or other means of communicating or providing information including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that such individual can or will perform any of the activities of a mortgage loan originator.

Q. I am a loan processor. Do I need to obtain a MLO license?
A. It depends. Both the SAFE Act and RMLA provide that loan processors and underwriters who are employees of a licensed mortgage banker, a registered mortgage banker, or an installment loan company are not required to obtain a MLO license. The SAFE Act and the RMLA require that loan processors and underwriters who are independent agents of a licensed mortgage banker, a registered mortgage banker, or an installment loan company to obtain a MLO license in order to process or underwrite loans. The Department considers the fact that an employer reports a loan processor or underwriter’s compensation to the Internal Revenue Service on Form 1099 or W-2 to be the determining factor as to whether a loan processor or underwriter is an independent agent requiring a MLO license.
Q. Can I contact a consumer if I am a loan processor or underwriter employed by a licensee?
A. A loan processor or underwriter who is exempt because they are the employee of a licensee may contact customers of the licensee as necessary to perform clerical or support duties. Such contact cannot occur prior to the receipt of a completed residential mortgage loan application. Furthermore, such contact should be limited to obtaining the information necessary to process or underwrite the loan. For example, a loan processor or underwriter can contact a customer to obtain copies of various documents including tax forms, bank statements, court documents, etc. that are necessary to process the residential mortgage loan. A loan processor or underwriter cannot advise the consumer about the terms of the residential mortgage loan, advise the consumer about the effect of issues contained in a credit report or other document may have upon the residential mortgage loan application, or otherwise assists a consumer in obtaining or applying to obtain a residential mortgage loan. Should a customer ask a question about these items during a conversation with a loan processor or underwriter, the loan processor or underwriter should decline to answer the question and refer the customer to a licensed MLO.

Q. If I am a loan processor who is licensed as a MLO, may I advise customers about the terms of a residential mortgage loan?
A. Yes. A loan processor who obtains a MLO license may conduct all of the activities of a MLO.

Q. Am I exempt from the RMLA if I am a loan processor employed by a licensee?
A. No. The RMLA provides that a loan processor or underwriter employed by a licensee does not need to obtain a license. The RMLA does not provide for an exemption for such loan processors or underwriters. Therefore, all loan processors or underwriters are subject to the other provisions of the RMLA, most importantly the prohibited practices contained in Section 45-740. For example, if a loan processor falsifies documents in connection with a residential mortgage loan, the Department can initiate administrative action against the loan processor.

Unique Identifier

Q. What is the unique identifier?
A. The NMLS assigns a unique identifier to each entity, branch, and individual who submits a license application to a regulator on the NMLS. The unique identifier is a number that is assigned to each person and remains the same as the person changes employers and/or moves across state lines.

Q. Do I need to include my unique identifier in advertisements?
A. Yes. A MLO must include his or her unique identifier on any advertisement, solicitation letter, business cards, etc. Therefore, if a MLO sends a solicitation letter or email to a customer, the letter or email must include the MLO’s unique identifier. Similarly, if a MLO creates a website, the MLO must prominently display the unique identifier on the website.

Q. Does my company need to display unique identifiers in its advertising?
A. The RMLA does not require companies to display its own unique identifier on its own advertisements. Similarly, the RMLA does not require a company to list the unique
identifiers of its MLOs on its advertising, provided that the advertisement does not list the names of any MLOs who originate residential mortgage loans on behalf of the company. If the advertisement lists the name of a MLO, the unique identifier must be listed. Similarly, a website created by a mortgage banker does not need to contain unique identifiers, unless it lists the names of its MLOs (such as in a staff directory) in which case the unique identifier of such MLOs must be listed as well.

Q. **Do I need to include my unique identifier on loan documents?**
A. Yes. The RMLA requires that the mortgage loan application must include the MLO’s unique identifier. Furthermore, the Federal Housing Finance Agency is implementing a requirement that Fannie Mae and Freddie Mac collect the unique identifier of the MLO and the company employing the MLO on the Form 1003 beginning in 2010. At this time, the Form 1003 or other loan application form is the only loan document that will require the MLO to include his or her unique identifier.

License Applications and Deadlines

Q. **When does the licensing requirement go into effect?**
A. All MLOs who originate loans secured by a dwelling located in Nebraska on or after July 31, 2010, must be licensed.

Q. **What is the deadline for submitting a MLO application to the Department?**
A. Mortgage loan originators are strongly encouraged to complete these requirements by June 1, 2010, to ensure that the Department has sufficient time to review the completed application. While the Department will use its best efforts to timely review applications submitted after June 1, 2010, the Department will not guarantee that it will be able to review such applications prior to July 30, 2010, due to the anticipated high volume of applications.

Q. **What do I need to submit to the Department to apply for a MLO license?**
A. The Department has created a Transition Plan which outlines the requirements that the MLO must complete to obtain a MLO license. The Transition Plan is located on the Department’s website at [http://www.ndbf.ne.gov/mb/index.shtml](http://www.ndbf.ne.gov/mb/index.shtml).

Q. **Can my employer submit an application on my behalf?**
A. An individual must create their own base record on the NMLS. Once a base record is created on the NMLS, the individual may grant access to their record to their employer. The employer then can create the Form MU4, amend the Form MU4, and pay licensing fees on behalf of the MLO. Prior to submitting a Form MU4 to the Department, the MLO must log into the NMLS, review the information inputted by the company, and attest to the forms accuracy.

Q. **Can I continue to work as a MLO until July 30, 2010, without obtaining a MLO license?**
A. Yes. You can continue to conduct MLO activities until July 30, 2010, without a license.

Q. **If I cannot complete the requirements prior to July 30, 2010, will I be able to obtain an extension of the deadline?**
A. No. The Department will begin accepting MLO license applications on January 4, 2010. In addition, many of the requirements for obtaining a license such as testing and education will
be available starting in August 2009. The Department believes that this is more than sufficient time for MLOs to come into compliance with the RMLA’s requirements.

Q. **Will the Department issue a provisional license which will allow me to work as a MLO while I complete the testing and education requirements and while my application is pending?**
A. No. Neither the SAFE Act nor the RMLA have any provisions which would allow the Department to issue a license to any individual prior to such individual having met the pre-licensing requirements. This is consistent with the interpretation that HUD has issued in the SAFE Act FAQ’s it has posted on its website.

Q. **Can I work as a loan originator if I have a criminal record?**
A. Section 45-729 prohibits the Department from issuing a license to a person who has been convicted of a felony or misdemeanors involving fraud, dishonesty, or a financial services business. Section 45-747 provides that any person with such a conviction who works for a mortgage banker commits a Class 1 misdemeanor. Therefore, a person with these types of convictions cannot work for a Nebraska mortgage banker as a loan originator, loan processor or underwriter, or in any other capacity.

### License Maintenance

Q. **Will I receive a paper MLO license from the Department?**
A. No.

Q. **How will a lender be able to verify that I am licensed by the Department?**
A. The SAFE Act mandates that the NMLS establish a website for the public to access license information about MLOs. Therefore, a lender will be able to search this website by your name, your sponsoring employer, or your unique identifier to confirm that you are licensed.

Q. **Will the Department issue a separate license number?**
A. No. Your unique identifier will be your license number.

Q. **When does my MLO license expire?**
A. December 31st of each year.

Q. **When can I renew my license?**
A. The NMLS renewal process opens on November 1st of each year. All renewals must be submitted on or before December 31st.

Q. **What are the requirements for renewing my license?**
A. You must complete eight hours of approved continuing education and pay the renewal fee. For more information about continuing education please refer to the NMLS Resource Center.

Q. **Can my employer renew my license on my behalf?**
A. The NMLS does allow a company to renew the licenses of its MLOs. However, prior to submission, each MLO must log into the NMLS and attest that their Form MU4 and all supplemental material previously submitted to the Department remains accurate.
Q. Can I work for more than one mortgage banker?
A. No. You can only work for one mortgage banker.

Q. Must my license be sponsored by a mortgage banker?
A. Yes. Your license is dependant upon being sponsored by a licensed mortgage banker, a registered mortgage banker, or an installment loan company. The sponsoring entity assumes responsibility for your actions and its surety bond covers your activities as a MLO.

Q. How does an employer notify the Department that it is sponsoring my license?
A. By creating a sponsorship on the NMLS. Sponsorships can only be created by the employer.

Q. How do I notify the Department if I quit my job or change employers?
A. Both the employer and the employee have the ability to terminate a sponsorship on the NMLS. Should you leave the employment of a mortgage banker, the mortgage banker must notify the Department by terminating the sponsorship no later than ten days after the employment is terminated unless the employee has previously terminated the sponsorship. When you find a new employer, the new employer must notify the Department by creating a sponsorship on the NMLS.

Q. What happens to my MLO license if I lose my job?
A. If a sponsorship is terminated a MLO license will be placed in an inactive status on the NMLS. While in this status a MLO may not originate residential mortgage loans. When a new sponsorship request is received, the Department will place the MLO license in an approved status and the MLO will be able to originate residential mortgage loans on behalf of his or her new employer. The MLO does not need to complete any other requirements to have the license reactivated.

Q. If the mortgage banker I work for loses its Nebraska license, what happens to my MLO license?
A. If a mortgage banker’s license is revoked, suspended, cancelled, or expired, the sponsorships of all MLO licenses who work for the mortgage banker are terminated and the MLO licenses will be placed in an inactive status until the Department receives notice of a sponsorship by a different entity.

Q. If my license is in an inactive status, can I take continuing education or renew my license?
A. Yes. You can take continuing education and submit a renewal application when your license is on inactive status. However, submitting a renewal application does not reactivate your license. The Department must receive notice of a new sponsorship to reactivate the license.

Q. When do I have to submit amendments to the Department?
A. You must amend your Form MU4 anytime an answer to any question on the Form MU4 has changed. In addition, you must provide new or amended supplemental material to the Department anytime that the information contained in the supplemental information has changed. For particularly serious items such as criminal charges and convictions, bankruptcy filings, and discipline by other regulators, such notice must be submitted to the Department no later than three business days following the occurrence of the event. All other material changes must be submitted within thirty days after the occurrence of the event.
Fees

Q. **What is the initial license fee for a mortgage loan originator?**
A. $150.00 plus the NMLS processing fee and fees for background checks.

Q. **What is the renewal license fee for a mortgage loan originator?**
A. $125.00 plus the NMLS processing fee.

Q. **What are the fees for background checks and testing?**
A. Those fees are not yet determined. The NMLS Resource Center will include this information once it becomes available.

Further Questions

Q. **Where can I obtain more information about the requirements of the SAFE Act?**
A. The Department would recommend that you consult the following websites for additional information concerning the requirements of the SAFE Act:

1. The NMLS Resource Center at the address listed above contains information concerning pre-license testing, education, and background checks, as well as information related to the creation of your NMLS account and submission of the background check. The NMLS Resource Center also has information concerning the federal registration requirements.

2. The Conference of State Bank Supervisors has a website devoted to the SAFE Act’s requirements at:

3. HUD’s SAFE Act website at:
   [http://www.hud.gov/offices/hsg/ramh/safe/sfea.cfm](http://www.hud.gov/offices/hsg/ramh/safe/sfea.cfm) contains information from HUD concerning the SAFE Act including its December 24, 2008 interpretative letter and FAQ’s.

Q. **Who do I call if I have questions about filling out the forms on the NMLS?**
A. Questions about the NMLS should be directed to the NMLS call center at (240) 386-4444.