

Financial Institutions Division
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May 2010

To: The Chief Executive Officer of Licensed Mortgage Originators, Mortgage Servicers, Exempt Entities and Other Interested Parties

From: Kevin M. Murphy
Deputy Commissioner of Commerce

Re: Legislative Changes to Minn. Stat. Chapters 58 and 58A

The Commerce Department's legislative proposal concerning mortgage loan originators was incorporated into Senate File 2510 as Article 4 of that omnibus bill. The bill enacts a model law which is known as the SAFE ("Secure and Fair Enforcement") Act, under which the Commerce Department will license and regulate residential mortgage industry employees. House File 1671 authorizes an assessment on licensed residential mortgage originators to recover the costs to the Commerce Department for administering the licensing and registration requirements of Chapter 58A. The bills were passed by the Minnesota Legislature and signed into law by Governor Pawlenty. The pertinent portions of the bill are summarized below. The full texts of the bills are available on the Internet.¹ Senate File 2510 has an effective date of July 31, 2010. However, Minnesota is not scheduled to transition to the Nationwide Mortgage Licensing System (NMLS) until October 1, 2010. Therefore, company licenses and mortgage loan originator licenses will not be managed in NMLS until after that date.

Article 4 of Senate File No. 2510

<u>Section No.</u>	<u>Affected Statute</u>	<u>Effective Date</u>
1	58A.01	July 31, 2010
This is a new chapter called the "Minnesota Secure and Fair Enforcement for Mortgage Licensing Act of 2010" or "Minnesota S.A.F.E. Mortgage Licensing Act of 2010."		
2	58.A.02	July 31, 2010
Subdivisions 1 through 15 define various terms that are used throughout the new Act.		

¹Go to <http://www.leg.state.mn.us/> and click on the "Senate" or "House" icon. Make sure to select "Regular Session" in the box under the word "Legislation." then insert sf2510 or hf1671 in the get bill box, then click on go, then click on "text."

3 58A.03
Subdivisions 1 through 3 set forth the requirement that individuals engaged in the business of making residential mortgage loans in Minnesota must be licensed or exempt under subdivision 2. The effective date of this section is July 31, 2010, or a later date approved by the Department of Housing and Urban Development (HUD). Minnesota is currently scheduled to transition to the NMLS on October 1, 2010.

4 58A.04 July 31, 2010
This section requires an applicant for a mortgage loan originator license to complete a license application and gives the Commissioner of Commerce authority to enter into a contract with the Nationwide Mortgage Licensing System (NMLS) to collect and maintain records and process transaction fees related to licensing mortgage loan originators. It requires applicants for a license to submit to a background check through the Federal Bureau of Investigation and permits the commissioner to use this information to administer this act.

5 58A.045 July 31, 2010
Subdivisions 1 and 2 provide that licenses for mortgage loan originators will expire on December 31 and renew January 1 each year. It specifies a license fee of \$90, with a fee of \$50 for annual renewal.

6 58A.05 July 31, 2010
This section sets forth the findings that the commissioner must make before issuing a mortgage loan originator license. The findings include character of the applicant, qualifications (passage of written tests), and surety bond requirements.

7 58A.06 July 31, 2010
Subdivisions 1 through 6 describe the basic elements of the required prelicensing education for mortgage originators, including courses that comprise eight hours on specific subjects, taught in courses approved by the NMLS.

8 58A.07 July 31, 2010
These subdivisions describe the written pre-licensing test required in Section 58A.05, clause (5). A person must achieve a test score of not less than 75% correct answers to be considered a passed test. A person who does not pass a test must wait 30 days before retaking a test. After a fourth failed test, a person must wait six months before taking the test again.

9 58A.08 July 31, 2010
Subdivisions 1 and 2 specify that the license of a mortgage loan originator will be renewed if the licensee meets the standards in section 5, has satisfied the continuing education required in section 10, and has paid the renewal fee.

10 58A.09 July 31, 2010
Provides that the continuing education required for license renewal is eight hours each year of instruction approved by the NMLS, consisting of three hours of federal law and regulations; two

hours of ethics, and two hours of training related to lending standards for nontraditional mortgage loans.

11 58A.10 July 31, 2010

This section requires the commissioner to require mortgage loan originators to be licensed and registered through the NMLS. Permits the commissioner to participate in the NMLS and develop requirements necessary to participate in the NMLS, including the payment of fees for new and renewed licenses.

12 58A.11 July 31, 2010

This section requires the commissioner to develop a process by which mortgage loan originators can challenge information entered into the NMLS by the commissioner.

13 58A.12 July 31, 2010

This section permits the commissioner, under Chapter 14 (the Administrative Procedure Act), to take any of the enforcement actions listed in the section to enforce the Act.

14 58A.13 July 31, 2010

Subdivision 1 requires each mortgage originator's actions to be covered by a surety bond that reflects the dollar amount of loans originated by the person. An employee may be covered by the surety bond of the employee's employer, if the employer is subject to this act.

15 58A.14 July 31, 2010

Specifies the confidentiality status of information provided to the NMLS. It permits the commissioner to enter into agreements or sharing arrangements for information with other government agencies and associations of regulators, such as CSBS. It includes other data-related confidentiality provisions.

16 58A.15 July 31, 2010

Subdivisions 1 through 9 permit the commissioner to conduct investigations related to the commissioner's responsibilities under this act. It specifies the powers granted to the commissioner in great detail.

17 58A.16 July 31, 2010

Subdivision 1 lists 14 things that a licensed mortgage loan originator under this act is forbidden to do. Prohibits an individual who does only underwriting or loan processing to advertise that the individual will do anything that only a mortgage originator is allowed to do.

18 58A.17 July 31, 2010

Requires mortgage licensees to provide reports of condition to the NMLS in the form and contain the information the NMLS requires.

19 58A.18 July 31, 2010

This section requires the commissioner to report violations of this act and enforcement actions to the NMLS.

20	58A.20	July 31, 2010
Requires a mortgage loan originator to use its unique identifier on all forms, solicitations, advertisements, including business cards, Web sites, and other documents.		
21	58A.21	July 31, 2010
The final rules adopted by HUD under the federal SAFE Act of 2008 and subsequent amendments, are incorporated by reference.		
22	Effective Date	July 31, 2010
This section gives an effective date of July 31, 2010 for Article 4.		

Article 5 of Senate File No. 2510

<u>Section No.</u>	<u>Affected Statute</u>	<u>Effective Date</u>
1	58.04, subd. 1	July 31, 2010
Eliminates current solvency requirements for mortgage originator companies, except for a surety bond described in section 3 of this article.		
2	58.06, subd. 2	July 31, 2010
This section reiterates the surety bond requirement for mortgage originator companies. It also eliminates the requirement that a licensed company maintain a roster of individuals the company employs as mortgage loan originators.		
3	58.08, subd. 1a	July 31, 2010
A subdivision was added to specify the amount of the surety bond required for mortgage originators. It requires the bond to cover all individuals who originate loans as employees or independent contractors. The bond must cover punishment imposed by the commissioner and claims by customers for losses caused by the licensee's violation of law or breaches of contracts. It requires that the amount of the bond be increased to as much as \$200,000 based upon the dollar value of closed residential mortgage loans as shown by the licensee's mortgage call report.		
4	58.09	July 31, 2010
This amendment makes licenses for mortgage originators and servicers expire each year on December 31 and renew on January 1.		
5	58.10, subd. 1	July 31, 2010
This section specifies license fees for each type of license and renewal. The initial license fee for a residential mortgage originator is \$1000 with a renewal fee of \$500. The initial license fee for a residential mortgage servicer is \$500 with a renewal fee of \$250.		
6	58.11, subd. 1 and 2	July 31, 2010
This section makes changes to conform with sections 4 and 5.		

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This section requires mortgage originators and servicers that have a July 31, 2011 license expiration date pay a prorated renewal fee of \$200 and \$100, respectively, payable December 31, 2010, for an extension to December 31, 2011.

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58.126

July 31, 2010

This section repeals Section 58.126, which imposes a continuing education requirement now replaced by Chapter 58A in Article 4 of Senate File 2510.

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This section makes this Article effective July 31, 2010.

Article 4 of House File 1671

Section No.

10

This section permits the commissioner to levy a one-time assessment on mortgage originators to cover licensing and registration costs under the new Chapter 58A. The assessment must be levied by September 30, 2010, and paid by November 30, 2010. If a licensee fails to pay the assessment by the due date, its license may be suspended by the commissioner until it is paid in full. This section expires December 1, 2010.

The above summary is provided for your convenience and is not intended as legal advice. The statutes and the changes thereto are complex and reference to the bill is recommended.