

Chapter 10

The SAFE Act

Chapter Objectives

- Identify licensing requirements and procedures for mortgage loan professionals
- Recognize education requirements for MLOs

The SAFE Act

- **About SAFE Act**
 - Title V of HERA; Secure and Fair Enforcement for Mortgage Licensing (SAFE) Act
 - Designed to enhance consumer protection and reduce fraud by requiring national minimum standards for mortgage training
 - Requires states to implement an MLO licensing process that meets certain standards through the Nationwide Mortgage Licensing System & Registry (NMLS)

12 CFR § 1008

The SAFE Act

- **NMLS**

- Responsible for providing a centralized and standardized system for mortgage licensing that accommodates both the regulatory agencies and the mortgage industry
- NMLS website contains information for all MLOs, including steps necessary to set up an account, schedule a test appointment, and access state-specific requirements

The SAFE Act

- **SAFE Act Objectives**

- Provide uniform license applications and reporting requirements for state-licensed MLOs
- Provide a comprehensive licensing and supervisory database
- Aggregate and improve the flow of information to and between regulators
- Provide increased accountability and tracking of MLOs
- Streamline the licensing process and reduce regulatory burden
- Enhance consumer protections and support anti-fraud measures

12 CFR § 1008

The SAFE Act

- **SAFE Act Objectives**

- Provide consumers with free, easy-to-access information about an MLO's employment history and any public disciplinary and enforcement actions
- Establish a means by which residential MLOs are required to act in the best interests of the consumer
- Facilitate responsible behavior in the subprime mortgage marketplace
- Provide comprehensive training and examination requirements related to nontraditional mortgage products
- Facilitate the collection and disbursement of consumer complaints on behalf of state mortgage regulators

The SAFE Act

- **Mandates for States**

- CSBS and AARMR developed model state law that meets minimum standards in the SAFE Act
 - Definitions
 - Education
 - Testing requirements
 - Financial responsibility
 - Background standards for MLOs

- **MLO Definition**

- An individual who takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan for compensation or gain

12 CFR § 1008

The SAFE Act

- **MLO Definition**

- Does NOT include:

- Individual who performs purely administrative or clerical tasks for licensee
- Person/entity that only performs real estate brokerage activities and is licensed/registered in accordance with applicable state law
- Person/entity solely involved in extending credit on timeshare plans
- Individual who is employed by a government agency or by a bona fide nonprofit organization to act as a loan originator
- Individual who is a registered MLO, employed by a covered institution, and who has a unique identifier through NMLS

12 CFR § 1008

The SAFE Act

- **MLO License Not Required**
 - A loan processor or underwriter who does not represent to public, through advertising or other means of communication, that he can or will perform activities of a loan originator
- **MLO License Required**
 - An independent contractor engaged in residential mortgage loan origination activities as a loan processor or underwriter
- **NMLS Unique Identifier Requirement**
 - Applies to all federally-registered and state-licensed residential MLOs

12 CFR § 1008



10.1 Knowledge Check

The SAFE Act defines a licensed mortgage loan originator as an individual who takes a residential mortgage loan application and offers or negotiates terms of a residential mortgage loan for

- A. a fee.
- B. compensation or gain.
- C. personal gain.
- D. profit.

SAFE Act

- **Other Definitions**

- Administrative or Clerical Tasks
- Depository Institution
- Federal Banking Agencies
- Loan Processor or Underwriter
- Nontraditional Mortgage Product
- Real Estate Brokerage Activity
- Registered Mortgage Loan Originator
- Residential Mortgage Loan
- State
- State-Licensed Mortgage Loan Originator
- Unique Identifier

SAFE Act License Requirements

- **MLO License Issuance Requirements**
 - Submit to a background check; provide personal history and experience
 - Complete 20 hours of pre-licensing education
 - Achieve at least 75% test score on National Test
 - Demonstrate financial responsibility, character, and general fitness
 - Be covered by either a net worth or surety bond, or pay into a state fund
 - Provide authorization to obtain independent credit report and information relative to any administrative, civil, or criminal findings

12 CFR § 1008

SAFE Act License Requirements

- **MLO License Issuance Requirements**
 - Never have had an MLO license revoked in any government jurisdiction
 - Never have been convicted of or pled guilty or nolo contendere to a felony in a domestic, foreign, or military court
 - During the 7-year period preceding the date of the application for licensing/registration, or
 - At any time preceding such date of application, if such felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering
 - Not be in violation of prohibited acts or practices

MLO License Issuance Requirements

- **Prelicensing Education Requirements**
 - 20 hours of NMLS-approved prelicensing education on national topics:
 - Federal law and regulation (3 hours)
 - Ethics, including fraud, consumer protection, and fair lending (3 hours)
 - Nontraditional mortgage products (2 hours)
 - Electives (12 hours)
- **State-Specific Education Requirement**
 - Different in each state; state determines

MLO License Issuance Requirements

- **MLO National Test**

- Test Components

- Federal mortgage-related laws (23%)
- General mortgage knowledge (23%)
- Mortgage loan origination activities (25%)
- Ethics (16%)
- Uniform state test (13%)

- Passing Score: 75%

- Can take test 3 consecutive times with 30-day waiting period; after 3 fails, must wait 6 months

- Resources on NMLS website

12 CFR § 1008

MLO License Issuance Requirements

- **Character and Fitness**

- Requirement

- Must demonstrate financial responsibility, character, and general fitness such as to command confidence of community and to warrant determination that will operate honestly, fairly, and efficiently

- Do Not Meet Requirement

- Current outstanding judgments, except judgments solely as a result of medical expenses
 - Current outstanding tax liens or other government liens and filings
 - Foreclosures or a pattern of seriously delinquent accounts within the past 3 years

12 CFR § 1008



10.2 Knowledge Check

An individual may try _____ times to pass the national component of the SAFE Mortgage Loan Originator Test with Uniform State Content before having to wait at least six months before taking it again.

- A. two
- B. three
- C. four
- D. five

MLO License Requirements

- **Prohibited Conduct and Practices**
 - Directly or indirectly employ any scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud any person
 - Engage in any unfair or deceptive practice
 - Obtain property by fraud or misrepresentation
 - Solicit or enter into a contract with a borrower that provides in substance that the person or individual subject to this Act may earn a fee or commission through “best efforts” to obtain a loan, even though no loan is actually obtained for the borrower

MLO License Requirements

- **Prohibited Conduct and Practices**

- Solicit, advertise, or enter into a contract for specific interest rates, points, or other financing terms, unless the terms are actually available at the time
- Conduct any business covered by the SAFE Act without holding a valid license as required under the Act, or assist or aid and abet any person in the conduct of business under the SAFE Act without a valid license as required under the Act
- Fail to make disclosures as required by the SAFE Act and any other applicable state or federal law, including regulations thereunder

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MLO License Requirements

- **Prohibited Conduct and Practices**

- Fail to comply with rules or regulations promulgated under the SAFE Act, or fail to comply with any other state or federal law, including the rules and regulations thereunder, applicable to any business authorized or conducted under the SAFE Act
- Make, in any manner, any false or deceptive statement or representation, or optional add-on, including, with regard to the rates, points, or other financing terms or conditions for a residential mortgage loan, or engage in bait and switch advertising

12 CFR § 1008

MLO License Requirements

- **Prohibited Conduct and Practices**
 - Collect, charge, attempt to collect or charge or use or propose any agreement purporting to collect or charge any fee prohibited by the SAFE Act
 - Cause or require a borrower to obtain property insurance coverage in an amount that exceeds the replacement cost of the improvements as established by the property insurer

MLO License Requirements

- **State Requirements**

- Must maintain a loan originator licensing, supervisory, and oversight authority that provides effective supervision and enforcement, in accordance with the minimum standards
- **Supervisory Authority**
 - Must have legal authority and mechanisms to suspend, terminate, and refuse renewal of a loan originator license for violation of state or federal law and to impose civil money penalties for individuals acting as mortgage loan originators

SAFE Act - MLO License Requirements

- **License Maintenance Requirements**
 - Continue to meet the minimum standards for license issuance as defined by the state
 - Satisfy the annual continuing education requirements as defined by the state
 - Pay renewal fees
 - Apply for renewal within the annual renewal period and no later than December 31 of each year

MLO License Renewal Requirements

- **Continuing Education Requirements**
 - 8 hours of CE every year, including these topics:
 - Federal law and regulation (3 hours)
 - Ethics, including fraud, consumer protection, and fair lending (2 hours)
 - Nontraditional mortgage products (2 hours)
 - Elective (1 hour)
- **State-Specific Education Requirement**
 - Different in each state; state determines; elective may be state-specific

MLO License Renewal Requirements

- **Continuing Education Requirements**
 - Must be approved by NMLS
 - May be offered either in a classroom, online, or by any other means approved by the NMLS
 - Must adhere to Successive Year Rule
 - Completing the education requirements for a state is accepted as credit towards completion of continuing education requirements in any other state

MLO License Renewal Requirements

- **MLO Transitional Authority**
 - MLOs licensed in 1 state may be allowed to originate loans for up to 120 days while applying to a state agency for a new license in another state
- **Lapses in License Renewal**
 - Unlicensed up to 3 years must complete CE for the last year in which the license was held
 - Unlicensed 3-5 years must retake the 20 hours of PRE education to reinstate
 - Unlicensed 5 years must retake/pass National Test



10.3 Apply Your Knowledge

Match each MLO license-related term with general description.

MLO License Term	Description
1. Continuing Education	H. 2 Hours of Ethics Education
2. Registered MLO	C. Depository Institution
3. Loan Originator	F. Takes a Loan Application
4. Loan Processor	B. Clerical/Administrative Duties
5. Nontraditional	A. 3/1 Adjustable Rate Mortgage
6. Prelicensing	G. 24 Hours of Education
7. SAFE Act	D. HERA
8. Unique Identifier	E. NMLS #
9. UST	I. Uniform State Test

Chapter 10 Quiz

1. **According to the SAFE Act, which incident from 10 years ago would NOT automatically disqualify an applicant for a mortgage loan originator license?**
 - A. conviction for felony assault
 - B. conviction for felony fraud
 - C. conviction for felony money laundering
 - D. revocation by the state of a mortgage broker's license

Chapter 10 Quiz

- 2. The SAFE Act requires state-licensed loan originators to have a minimum of how many hours of approved prelicensing education?**
- A. 8
 - B. 12
 - C. 20
 - D. 24

Chapter 10 Quiz

- 3. An MLO applying for a state license must provide all of the following EXCEPT**
- A. employment history.
 - B. evidence of completion of the mandatory eight-hour education requirement.
 - C. a passed a background check.
 - D. a personal residence and employment history.

Chapter 10 Quiz

4. The SAFE Act defines a licensed mortgage _____ as an individual who takes a residential mortgage loan application and offers or negotiates terms of a residential mortgage loan for compensation or gain.
- A. broker
 - B. lender
 - C. loan originator
 - D. loan processor

Chapter 10 Quiz

- 5. Which of the following is NOT a required continuing education topic under the SAFE Act?**
- A. ethics
 - B. federal mortgage laws
 - C. nontraditional mortgage loans
 - D. property taxes

Chapter 10 Quiz

- 6. Ed's mortgage loan originator license application will be denied if he has been convicted of a felony _____ that involved an act of fraud, dishonesty, breach of trust, or money laundering.**
- A. at any time
 - B. within the last five years
 - C. within the last seven years
 - D. within the last ten years