

**STATE OF VERMONT
DEPARTMENT OF BANKING, INSURANCE, SECURITIES
AND HEALTH CARE ADMINISTRATION**

In Re:)
)
 8 V.S.A. Chapter 73) **Docket No. 11 - 021 - B**
 Licensed Lender Statute)
 Act No. 29 (H.171) 2009)
)

**Order Regarding Effective Date Of
Sponsorship Requirement For
Individual Mortgage Loan Originators That Are
Employees Of Loan Servicing Companies**

Background

1. Act 29 of the 2009-2010 legislative session modified the Licensed Lender Statute, 8 V.S.A. Chapter 73, to bring Chapter 73 into compliance with the federal Secure and Fair Enforcement for Mortgage Licensing Act (the "SAFE Act").
2. The SAFE Act requires that all states license individual mortgage loan originators and Chapter 73 now governs the licensing of individual mortgage loan originators in Vermont.
3. Under the broad definitions in the SAFE Act and in Chapter 73 the loss mitigation employees of mortgage loan servicing companies need to obtain individual mortgage loan originator licenses to continue their loan modification and loss mitigation efforts for loans serviced by the loan servicing company.
4. The federal Department of Housing and Urban Development ("HUD") is currently in the rulemaking process for the SAFE Act and has issued Proposed Rule "SAFE Mortgage Licensing Act; HUD Responsibilities Under the SAFE Act", Docket No. FR-5271-P-01 (the "Proposed HUD Rule").
5. The Proposed HUD Rule indicates HUD's inclination to require individuals who modify residential mortgages to be licensed as mortgage loan originators. The final HUD rule has not been published as of the date of this Order.
6. 8 V.S.A. Chapter 85 requires the licensing of third party loan servicers.

7. 8 V.S.A. §2201(b) requires that each licensed mortgage loan originator must be employed and sponsored by either a licensed lender or a licensed mortgage broker. Section 2201(b) does not presently allow a licensed mortgage loan originator to be employed and sponsored by a third party loan servicer.

8. Under current law a licensed third party loan servicer must obtain an additional lender license or an additional mortgage broker license in order to sponsor its licensed mortgage loan originator employees engaged in loan modification and loss mitigation activities.

9. The Department has found that requiring a licensed third party loan servicer to obtain an additional lender license or mortgage broker license in order to sponsor its mortgage loan originator employees engaged in loan modification and loss mitigation activities has not worked well.

10. A bill is currently pending in the Vermont legislature that would allow a licensed mortgage loan originator engaged in loan modification activities to be employed and sponsored by a licensed third party loan servicer, provided the "loan modification" activity is limited to an adjustment or compromise of an existing residential mortgage loan and does not include a refinancing transaction. It is anticipated that the bill will be enacted and will become effective on passage.

11. Act 29, Sec. 3, provides that the commissioner may extend the date for compliance with any provision of the Act provided the extension is permitted or approved by HUD.

12. Given the current difficult circumstances in the residential mortgage market and the number of homeowners potentially facing foreclosure or having difficulty making their mortgage payments; and in order to avoid any disruption in foreclosure prevention efforts, to encourage loan servicing companies to increase staff to meet the loss mitigation and loan modification needs of borrowers, and to promote a smooth transition to third party servicer sponsorship of mortgage loan originators, it is appropriate to delay the date by which a mortgage loan originator employed by a third party loan servicer and engaged in loan modification activities must be employed and sponsored by a licensed lender or mortgage broker.

Order

13. Subject to the limitations and criteria in this Order, it is hereby ordered that prior to December 1, 2011 a mortgage loan originator employed by a third party loan servicer does not need to be licensed and sponsored by a licensed lender or mortgage broker to engage in loan modification activities.

14. It is anticipated that the pending legislation allowing a mortgage loan originator engaged in loan modification activities to be employed and sponsored by a licensed third party loan servicer will be enacted and will be effective prior to December 1, 2011.

15. Prior to December 1, 2011 a licensed mortgage loan originator may engage in loan modification activities without being employed and sponsored by a licensed lender or mortgage broker, provided the individual and the third party loan servicer meet all of the following criteria:

a. The individual must be licensed as a mortgage loan originator in the State of Vermont;

b. The company must be a licensed third party loan servicer in the State of Vermont; and

c. The individual mortgage loan originator must be an employee of the licensed third party loan servicing company.

d. Neither the individual nor the third party loan servicing company receives any direct or indirect compensation from the borrower for providing the loan modification or any related foreclosure mitigation services.

e. Notwithstanding the provisions of subparagraph 15 d, the lender, the third party loan servicing company, and the borrower may receive incentive payments from a federal or state government, or an agency or department thereof, for participating in the federal Home Affordability Modification Program or in a similar state or federal foreclosure prevention program.

16. For purposes of this Order, the term "loan modification" is limited to an adjustment or compromise of an existing residential mortgage loan. The term "loan modification" does not include a refinancing transaction.

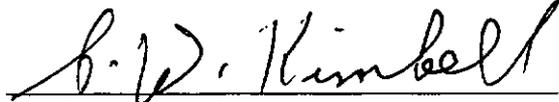
17. This Order is necessary and appropriate to:

a. Avoid any disruption in foreclosure prevention efforts, including loss mitigation and loan modification efforts by third party loan servicers, during the current difficult circumstances in the residential mortgage market; and

b. Allow an orderly transition for mortgage loan originators to be employed and sponsored by licensed third party loan servicers and to make any necessary adjustments to their filings with the Nationwide Mortgage Licensing System and Registry.

18. Based on the current information and guidance from HUD, the Commissioner believes that the extension permitted by this Order is consistent with HUD's current guidance.

Dated at Montpelier, Vermont this 6th day of May 2011.



Stephen Kimbell

Commissioner of Banking, Insurance, Securities
and Health Care Administration