

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

**In Re:** )  
 )  
 **8 V.S.A. Chapter 73** ) **Docket No. 10 - 033 - B**  
 **Licensed Lender Statute** )  
 **Act No. 29 (H.171) 2009** )  
 )

**Order Regarding Effective Date Of  
Individual Mortgage Loan Originator Licensing For  
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 responsible for determining whether a state has a law or regulatory system in place that meets the requirements of the SAFE Act. See, SAFE Act §1508.
5. 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").
6. The Proposed HUD Rule indicates HUD's inclination to require individuals who modify residential mortgages to be licensed as mortgage loan

originators. The Proposed HUD Rule also specifically asks for comments on this issue. The final HUD rule has not been published as of the date of this Order.

7. Subject to the guidelines and limitations provided in this Order, the commissioner desires to delay the effective date for loss mitigation employees and loan modification employees of mortgage loan servicing companies to obtain a mortgage loan originator license in order to promote foreclosure prevention opportunities during this time of increased foreclosure activity.

8. 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.

9. 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, it is appropriate to delay the effective date for loss mitigation employees and loan modification employees of mortgage loan servicing companies to obtain a mortgage loan originator license in order to avoid any disruption in their foreclosure prevention efforts and to encourage loan servicing companies to increase staff to meet the loss mitigation and loan modification needs of borrowers.

### Order

10. Subject to the limitations and criteria in paragraph 11, it is hereby ordered that the effective date for loss mitigation employees and loan modification employees of mortgage loan servicing companies to obtain a mortgage loan originator license is hereby delayed until July 31, 2010.

11. An individual and the individual's employer must meet all of the following criteria to qualify for the delay in the mortgage loan originator licensing requirement set forth in paragraph 10:

- a. The individual must be an employee of a third party loan servicing company.
- b. The third party loan servicing company must not be the original lender of the mortgage loan and the company must service residential mortgage loans owed or due, or asserted to be owed or due, another.
- c. 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.
- d. Notwithstanding the provisions of subparagraph c 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.

Dated at Montpelier, Vermont this 19<sup>th</sup> day of April 2010.



Paulette Thabault  
Paulette Thabault  
Commissioner of Banking, Insurance, Securities  
and Health Care Administration