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States Rush to Comply with New Federal Mortgage Broker Licensing Standards

Background

States are expected to move quickly in 2009 to implement Title V of the Housing and Economic Recovery Act of 2008, a sweeping housing bill Congress enacted last year. Among other provisions, the new federal law contains a comprehensive new system for licensing and regulating mortgage originators. Under the new federal law, state mortgage originators will have to be state-licensed under new minimum licensing standards that the law creates for the states. Among the licensing requirements is a requirement of one of the following: a net worth or surety bonding requirement based on the loan volume or payment into a recovery fund. States are given two years to put these minimum licensing requirements in place or the Department of Housing and Urban Development (HUD) must implement a system for loan originators from states that are not compliant.

Status of Implementation

The Conference of State Bank Supervisors (CSBS) has drafted model legislation to assist the states in enacting laws that comply with the new federal requirements. The CSBS model legislation instructs the states to choose one of the three required options and gives the state banking commissioner the authority to promulgate regulations implementing the option chosen.

The vast majority of states already have a mortgage broker bond requirement and the state legislation to date indicates that states are opting for the bond requirement. While most of the state banking commissioners are familiar with the license bond requirements, what is new to them is the federal requirement that the bond amount now must be based on the dollar amount of the loans originated. SFAA provided the CSBS and the states with guidelines for the state regulations that will be needed once the model legislation is enacted in the states. SFAA prepared a description of a mortgage broker bond, suggested regulatory language for a bond and a chart of the existing state laws on mortgage broker bond. Regarding a bond amount based on the mortgage originator's loan volume, SFAA suggested bond amount that would range from \$12,500 to \$50,000.

SFAA's materials on mortgage broker bond are on the Members Only portion of the website. SFAA also will post updates of the state legislation on the mortgage broker bond.