



MBA's Transitional Licensing Proposal Outline

- **Overview:** MBA drafted an amendment to the Conference of State Bank Supervisors (CSBS) and American Association of Residential Mortgage Regulators (AARMR) state model language. The amendment explicitly permits transitional licensing of registered and out-of-state licensed mortgage loan originators pending completion of appropriate state licensing requirements. It is intended to serve as either a statutory amendment to a state's licensing law or as a free standing regulation implementing such law. Notably, the amendment is accompanied by a legal opinion that makes clear that states may adopt such provisions.
- **Background:** Under SAFE, requirements for the qualification of mortgage loan originators differ depending on whether the mortgage loan originator works for a state or federally regulated company (lender or mortgage broker). Loan originators for state-regulated companies must be both licensed and registered. Loan originators for federally regulated lenders, however, must only be registered (because they are only subject to federal requirements.)

Currently, mortgage originators of federally regulated institutions and other states, no matter how experienced, must await training and licensure before they can work for and serve customers of state-regulated lenders. In addition, before a licensed or registered loan originator of one state can operate in another state, the originator must satisfy the second state's licensing requirements even though they may be well-qualified, resulting in significantly delayed service to consumers.

- Consequently, state regulated companies, including smaller enterprises, are disadvantaged in attracting and putting to work experienced originators from federally regulated institutions or other states. On the other hand, federally regulated lenders can easily attract and hire qualified loan originators of state regulated entities and put them to work immediately. Consumers patronizing state regulated lenders suffer from decreased choices and potentially increased financing costs. This amendment will rectify these concerns.
- **The Amendment:** The amendment permits qualified registered loan originators and out-of-state loan originators to be issued a transitional license while successfully completing appropriate state licensing requirements, including any pre-licensing education and a state-specific licensing test that a state may deem appropriate.
- In order to qualify for a transitional license, an out-of-state loan originator and a registered loan originator must:
 1. Submit an application on a standard national form;

2. Certify that the applicant: (a) is registered and has been employed by a compan(ies) for a period of at least [recommend two years] prior to the date of the application as a mortgage loan originator; and (b) as of the date of application for a transitional license, has never had a mortgage loan originator license revoked, been convicted of a felony in the last seven years or ever involving fraud, dishonesty, breach of trust or money laundering;
 3. Maintain a valid unique identifier through the Nationwide Mortgage Licensing System and Registry;
 4. Authorize the NMLSR to obtain a credit report;
 5. Be employed by a qualified company licensed in the NMLSR (sponsor) that will cover the applicant under its surety bond during the term of the transitional license or contribute to a state fund on the applicant's behalf; and
 6. Provide a reasonable fee established at the discretion of the State in an amount [not exceeding \$100].
- A transitional mortgage license would be effective for a minimum of 120 days from the date the application is approved. During that time, the applicant will complete the requirements that the state deems appropriate.
 - **Legal Opinion:** Consistent with the purposes of SAFE and in the absence of preemption, states may grant transitional licenses to registered and out-of-state licensed loan originators so they may work as loan originators within their states pending licensure.

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