



pennsylvania

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To Installment Sellers of Manufactured Homes:

On November 23, 2010, Governor Rendell signed into law H.B. 2547. H.B. 2547 amends Pennsylvania's Mortgage Licensing Act (the "MLA"), 7 Pa. § 6101 et seq. One of the provisions of H.B. 2547 is that it exempts sellers of manufactured homes who are licensed as installment sellers under the Motor Vehicle Sales Finance Act (the "MVSFA") and who finance sales of manufactured homes using installment sale contracts in accordance with the MVSFA from having to be licensed as mortgage lenders under the MLA. Individual employees of manufactured home installment sellers who accept financing applications or negotiate terms are still required to be licensed as mortgage loan originators under the MLA. Also, the bonding requirements for those mortgage loan originators remain in place.

Furthermore, if a manufactured home seller does not provide financing in its own name but instead provides consumer information to a lender, the manufactured home seller is still required to be licensed as a mortgage broker. Employees of those manufactured home sellers would still be required to be licensed as mortgage loan originators if they accept application information or negotiate loan terms.

Background

A manufactured home is considered a "motor vehicle" under the MVSFA. Manufactured home sellers who provide financing for their mobile home sales are and have been required to be licensed as installment sellers under the MVSFA.

In 2008, as a result of the mortgage crisis, the federal government enacted the Secure and Fair Enforcement Mortgage Licensing Act of 2008 (the "SAFE Act".) The SAFE Act mandated that states enact legislation containing licensing requirements for entities involved in "mortgage loans", i.e. lending and financing where the collateral for the loan or financing contract is a "dwelling". The SAFE Act also required states to use the Truth in Lending Act definition of "dwelling". This definition includes loans secured by manufactured homes. Therefore, under the SAFE Act and any resulting state law, a loan or financing agreement secured by a manufactured home is considered a mortgage loan, even if collateral for the loan does not include real estate.

As a result of the SAFE Act, Pennsylvania amended its mortgage licensing act to create the MLA. The MLA requires that entities which make mortgage loans, including loans and financing agreements secured by a manufactured home, be licensed as a mortgage lender. An entity which does not make mortgage loans in its own name but which only brokers mortgage applications is required to be licensed as a mortgage broker.

Employees of either lenders or brokers who take mortgage loan applications or who negotiate mortgage loan terms are required to be licensed as mortgage originators.

Prior to the passage H.B. 2547, the seller of a manufactured home who financed the sale would have to be licensed both as an installment seller under the MVSFA and also as a mortgage lender under the MLA. The seller of a manufactured home who does not provide financing in its own name but who instead forwards borrower information to a lender would not have to be licensed under the MVSFA but would have to be licensed as a broker under the MLA.

In order to be licensed as a mortgage lender under the MLA, an entity has to meet certain capital, bond, and warehouse line of credit requirements (the "Lender Requirements"). These Lender Requirements were onerous for many manufactured home sellers.

Some manufactured home sellers applied to be licensed as mortgage lenders and were granted licenses on the condition that they meet the Lender Requirements by December 31, 2010. Other manufactured home sellers have applied to be licensed as mortgage lenders and have pending applications. If manufactured home sellers who are licensed as mortgage lenders or have pending applications to be licensed as mortgage lenders do not wish to meet the Lender Requirements and want to finance mobile home sales through installment sale contracts under the MVSFA, they should surrender their lender licenses or withdraw their pending license applications. Both surrendering of licenses and withdrawals of license applications must be done through the Nationwide Mortgage Licensing System at <http://mortgage.nationwidelicencingsystem.org>.

In addition to surrendering any lender license or cancelling any pending license application, a manufactured home seller who wishes to take advantage of the licensing exemption must register with the Nationwide Mortgage Licensing System as a "partially-exempt entity". Again, this licensing exemption only applies to manufactured home sellers who are licensed as installment sellers under the MVSFA.

This letter should not be construed as legal guidance. Please read H.B. 2547 or the MLA for additional information or seek guidance from qualified legal counsel.

If you have any questions regarding the above, please contact the Licensing Division at (717) 787-3717.

Sincerely,



David Bleicken
Deputy Secretary of Banking
Non-Depository Institutions and
Consumer Services