

ONE HUNDRED FIRST LEGISLATURE - FIRST SESSION - 2009
COMMITTEE STATEMENT
LB328

Hearing Date: Monday February 09, 2009
Committee On: Banking, Commerce and Insurance
Introducer: Pahls
One Liner: Change banking, mortgage bankers, and installment loan provisions

Roll Call Vote - Final Committee Action:
Advanced to General File

Vote Results:

Aye: 8 Senators Christensen, Gloor, Langemeier, McCoy, Pahls, Pankonin,
Pirsch, Utter

Nay:

Absent:

Present Not Voting:

Proponents:

Senator Rich Pahls
Patricia Herstein
David Olson
Robert Hallstrom

Representing:

Introducer
NE Department of Banking and Finance
NE Mortgage Association
NE Bankers Association

Opponents:

Representing:

Neutral:

Patricia Lightner

Representing:

HSBC

Summary of purpose and/or changes:

LB 328 would implement the requirements mandated to the states by the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (S.A.F.E.), enacted into law as Title V of P.L. 110-229. LB 328 provides for a system of licensure of individual mortgage loan originators.

Section 1 would amend section 8-113 of the Nebraska Banking Act to change a reference from the Mortgage Bankers Registration and Licensing Act to the Residential Mortgage Licensing Act.

Section 2 would amend section 8-702 of the State-Federal Cooperation Act to provide that effective July 31, 2010, certain banking institutions that employ mortgage loan originators must register such employees with the Nationwide Mortgage Licensing System and Registry (NMLSR) by furnishing information concerning the employees' identity to the NMLSR, including fingerprints for a national criminal history background check, and personal history and experience. This provision incorporates the registration requirement of S.A.F.E.

Section 3 would amend section 45-701 of the Mortgage Bankers Registration and Licensing Act to change the name of the act to the Residential Mortgage Licensing Act to more accurately reflect the entities regulated by the act.

Section 4 would amend section 45-702 by adding and amending various terms and definitions to incorporate the requirements of the S.A.F.E. Act as outlined below:

Section 45-702(2) would amend the term "branch office" to clarify that a branch office includes the place of business of a mortgage loan originator.

Section 45-702(3) would amend the term "breach of security" to specifically refer to a breach of the NMLSR, rather than to a multistate licensing and application system, to reflect the terminology used in S.A.F.E.

Section 45-702(4) would add and define the term "clerical or support duties" as tasks which occur subsequent to the receipt of a residential mortgage loan application including (a) the receipt, collection, distribution, and analysis of information common for the processing or underwriting of a residential mortgage loan; or (b) limited communication with a consumer to obtain the information necessary for the processing or underwriting of a residential mortgage loan. The definition is consistent with the definition used in S.A.F.E.

Section 45-702(7) would replace the term "financial institution" with "depository institution," and define "depository institution" as any state or federally chartered bank, savings institution, trust company, savings and loan association, credit union, industrial bank, or similar depository institution engaged in the business of receiving deposits other than funds held in a fiduciary capacity. This revision is needed to become consistent with the definition referenced in S.A.F.E.

Section 45-702(9) would add and define the term "dwelling" as a residential structure located or intended to be located Nebraska, that contains one to four units, whether or not attached to real property, including an individual condominium unit, cooperative unit, mobile home, and trailer, if it is used as a residence. This definition is based upon the definition referenced in S.A.F.E. and the interpretative guidance issued by the United States Department of Housing and Urban Development (HUD).

Section 45-702(10) would add and define the term "federal banking agencies" as the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Department of the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Deposit Insurance Corporation. This definition is the same as that contained in S.A.F.E.

Section 45-702(11) would add and define the term "immediate family member" as a spouse, child, sibling, parent, grandparent, or grandchild, including stepparents, stepchildren, stepsiblings, and adoptive relationships.

Section 45-702(12) would add and define the term "installment loan company" as any person licensed pursuant to the Nebraska Installment Loan Act.

Section 45-702(13) would update and amend the definition of "licensee" to clarify that the term refers both to mortgage bankers and mortgage loan originators.

Section 45-702(14) would add and define the term "loan processor" as an individual who (a) performs clerical or support duties as an employee at the direction of a person licensed, or exempt from licensing, under the Residential Mortgage Licensing Act or Installment Loan Act; and (b) does not represent to the public that such individual can or will perform any of the activities of a mortgage loan originator. This definition is based upon the S.A.F.E. definition.

Section 45-702(15) would update and amend the definition of "mortgage banker" to "mortgage banker or mortgage banking business" to clarify that mortgage loan originators and loan processors and underwriters are not included in the definition of mortgage banker or mortgage banking business.

Section 45-702(16) would add and define the term "mortgage loan originator" as (a) an individual who for compensation or gain or in the expectation of compensation or gain (i) takes a residential mortgage loan application; or (ii) offers or negotiates terms of a residential mortgage loan. Listed exceptions include certain loan processors, persons licensed or registered to perform real estate brokerage activities unless compensated by a lender, mortgage broker, or other mortgage loan originator or their agents, and persons solely involved in extensions of credit relating to time-share programs. This definition is based upon the S.A.F.E. definition.

Section 45-702(17) would add and define the term "Nationwide Mortgage Licensing System and Registry" as the mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of mortgage loan originators, mortgage bankers, and installment loan companies. This definition is the same definition used in S.A.F.E.

Section 45-702(18) would add and define the term "nontraditional mortgage product" as any residential mortgage loan product other than a 30-year fixed rate residential mortgage loan. This definition is the same definition used in S.A.F.E.

Section 45-702(21) would add and define the term "real estate brokerage activity" to include acting as a real estate salesperson or real estate broker; bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property; or negotiating any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property (other than financing). This definition is the same as used in S.A.F.E.

Section 45-702(23) would add and define the term "registered mortgage loan originator" as (a) a mortgage loan originator who is an employee of (i) a depository institution; (ii) a subsidiary that is (A) wholly owned and controlled by a depository institution; and (B) regulated by a federal banking agency; or (iii) an institution regulated by the Farm Credit Administration; and (b) is registered with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry. This definition is the same as used in S.A.F.E.

Section 45-702(25) would add and define the term "residential mortgage loan" as any loan or extension of credit, including refinancing, which is primarily for personal, family, or household use and is secured by a mortgage, trust deed, or other equivalent security interest on a dwelling or residential real estate. This definition is based upon the S.A.F.E. definition.

Section 45-702(26) would define the term "residential real estate" as any real property located in this state upon which is constructed or intended to be constructed a dwelling.

Section 45-702(28) would add and define the term "state" as any state of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, or the Northern Mariana Islands. This is the same definition used in S.A.F.E. and in the Federal Deposit Insurance Act.

Section 45-702(29) would define the term "unique identifier" as the number or other identifier assigned by protocols established by the Nationwide Mortgage Licensing System and Registry. This definition is the same definition used in S.A.F.E.

Section 4 also would eliminate other terms and definitions currently in the act because the proposed additions of S.A.F.E. terminology make these definitions redundant. The terms that would be deleted are: mortgage banking business (current subsection (10)), mortgage loan (current subsection (11)), multistate licensing system (current subsection (12)), and real property (current subsection (15), now defined in the Installment Loan Act),

Section 5 would amend section 45-703 which provides exemptions from the Residential Mortgage Licensing Act as follows:

Section 45-703(1)(a) proposes coordinating amendments to section 45-702(7) in that it changes the current term "financial institution" to "depository institution."

Section 45-703(1)(c) would be amended to combine the current exemptions for insurance companies currently found in subdivisions (1)(c) and (j).

Section 45-703(1)(d) would be amended to change the language pertaining to the exemption for attorneys to the language approved by HUD. This language is mandated by HUD for states wishing to exempt attorneys from the

requirements of S.A.F.E.

Section 45-703(1)(e) would be amended to use the new terminology "real estate brokerage activities" and to add a restriction to this exemption disallowing the exemption for a real estate salesperson or broker who is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such lender, mortgage broker, or other mortgage loan originator. This restriction on the exemption is mandated by S.A.F.E.

Section 45-703(1)(f) would be amended to repeal the exemption for individual employees of a mortgage banker, and replace it with a limited exemption for registered mortgage loan originators. This exemption is repealed as licensing of these individuals is now mandated by S.A.F.E.

Section 45-703(1)(g) would be amended to repeal the exemption for individuals who are acting as independent agents of a mortgage banker and to provide an exemption to any sales finance company licensed pursuant to the Nebraska Installment Sales Act, which does not engage in mortgage banking business other than as a purchaser or servicer of an installment sales contract which is secured by a mobile home or trailer. This new exemption is necessary to retain current law, as sales finance companies are not required to obtain mortgage banker licenses. S.A.F.E. would otherwise include these companies in the definition of mortgage banker if they purchased installment contracts secured by a mobile home or trailer.

Section 45-703(1)(h) would provide for an exemption for any trust company chartered pursuant to the Nebraska Trust Company Act. Under current law these entities are exempt as they are "financial institutions." However, the new term "depository institution" used in S.A.F.E. and the Residential Mortgage Licensing Act, does not include these trust companies as they do not accept customer deposits. This exemption maintains current Nebraska law.

Section 45-703(1)(i) would provide an exemption for any wholly owned subsidiary of a registered bank holding company or insurance company. As a result of the changes to the exemptions for insurance companies, wholly-owned subsidiaries of out-of-state insurance companies with locations in Nebraska will now be exempt from the act.

Section 45-703(1)(j) would provide for an exemption for any individual who offers or negotiates terms of a residential mortgage loan with or on behalf of an immediate family member of the individual. This language is mandated by HUD for any state that wishes to exempt these transactions from the requirements of S.A.F.E.

Section 45-703(1)(k) would amend the current exemption for certain individual loan transactions by limiting the exemption to any individual who offers or negotiates terms of a residential mortgage loan secured by a dwelling that served as the individual's residence. This language is mandated by HUD for any state that wishes to exempt these transactions from the requirements of S.A.F.E.

Section 45-703(1)(l) would be added to provide an exemption for any employee or independent agent of a mortgage banker licensed or registered pursuant to the act or exempt from the act, if such employee or independent agent does not conduct the activities of a mortgage loan originator or loan processor or underwriter.

Section 6 would amend section 45-704 to provide for registration of exempt companies who employ or engage as an independent contractor any individual who is required to obtain a mortgage loan originator license. The registration of these exempt entities is necessary as S.A.F.E. mandates that any entity employing a mortgage loan originator must submit a report of condition, and all mortgage loan originators employed by these entities would need to be covered by a surety bond. The registration in this system provides a mechanism for the department to ensure that such companies are complying with these mandates. Further, the amendments to this section provide that the department may cancel the registration of any entity that fails to maintain a surety bond in the same manner that it currently uses when a licensed mortgage banker fails to maintain its surety bond requirement.

Section 7 would amend section 45-705 to clarify that this section applies to mortgage bankers, not to mortgage loan originators.

Section 8 would amend section 45-706 to clarify that this section applies to mortgage bankers, not to mortgage loan originators.

Section 9 would move and amend current section 45-709 of the act to set forth new surety bond requirements for a mortgage banker licensee or registrant, and to provide that a mortgage banker licensee must increase/decrease its surety bond to reflect the total dollar amount of the closed residential mortgage loans originated in this state in the preceding year. The surety bond would also be required to cover all mortgage loan originators who are employees or independent agents of the applicant. The section also provides that if the department determines that a mortgage banker licensee or registrant does not maintain a surety bond in the amount required, written notice is to be given requiring an increase of the surety bond within thirty days. This section is amended to reflect the requirement in S.A.F.E. that surety bonding must be based upon the volume of loan originations. Its placement in the act is changed so that all sections applying to mortgage bankers are in consecutive order.

Section 10 would move and amend current section 45-722 of the act. The amendment clarifies that any appeal of a denial of a change of control is subject to both the Administrative Procedure Act, and the department's administrative rules of procedures. Since this section only applies to mortgage bankers, it is being moved so that all sections applying to mortgage bankers are in consecutive order in the bill.

Section 11 proposes a new section to provide that mortgage reports of condition must be submitted to the Nationwide Mortgage Licensing System and Registry as required by the department. Such reports are mandated by S.A.F.E.

Section 12 is a new section which would provide that an individual may not engage in the business of a loan originator without first obtaining, and maintaining, a license as a state licensed loan originator and obtaining a unique identifier. It further provides an independent agent may not engage in activities as a loan processor or underwriter unless such independent agent, loan processor or underwriter obtains and maintains a license, a prohibition contained in the S.A.F.E. Act. The section requires these persons to obtain and maintain a valid unique identifier issued by the NMLSR. Section 12 also authorizes the director of the department to establish licensing rules or regulations and interim procedures for licensing and acceptance of applications, and expedited procedures for previously registered or licensed individuals. Finally, this section provides that all loan originators must be licensed on or before July 31, 2010.

Section 13 is a new section which would provide application requirements for mortgage loan originators. These include completion of an application and an application fee of one hundred fifty dollars, plus the cost of the criminal history and background check, and any processing fee of the NMLSR. An applicant must furnish the Registry with fingerprints for an FBI state and national criminal history background check; a personal history form with authorization for the Registry and the director of the department to an independent credit report and information related to any administrative, civil or criminal findings by any governmental jurisdiction.

This section further would provide that the director of the department may use the NMLSR as a channeling agent for requesting information from and distributing information to the United States Department of Justice or any government agency related to criminal histories, and for requesting information from and distributing information to any source as directed by the director as it pertains to all remaining items of the background check, including a credit report regarding the applicant. This provision incorporates S.A.F.E.'s mandate that the NMLSR is the channeling agent for the FBI criminal history background check.

Section 14 is a new section which would provide that the director of the department shall not issue a mortgage loan originator license unless he/she makes findings that the applicant has never had a mortgage loan originator license revoked in any governmental jurisdiction; has not been convicted of, or pled guilty or no contest to certain misdemeanors or any felony under state or federal law, unless subsequently pardoned; has met standards for financial responsibility; demonstrated character, and general fitness; completed pre-licensing education requirements; passed a written test; and is covered by a surety bond. This section provides procedures for denial of an application, including appeal, and provides that a mortgage loan originator license shall not be assignable.

Section 15 is a new section which would set forth the pre-licensing education requirements for a mortgage loan

originator. These include at least 20 hours of education which includes 3 hours of federal law and regulations; 3 hours of ethics; and 2 hours of training related to lending standards for the nontraditional mortgage product marketplace, and must be reviewed and approved by NMLSR. These specific requirements are mandated by S.A.F.E.

Section 16 is a new section which would require an applicant to take and pass a written test created by NMLSR. Components of the test are set forth as are minimum scores and provisions for retaking the test. These requirements are mandated by S.A.F.E. Act.

Section 17 is a new section which would establish the renewal requirements for mortgage loan originators. All initial mortgage loan originator licenses will remain in force until the next succeeding December 31st. The minimum standards for license renewal include continuing to meet the minimum standards for license issuance; meet annual continuing education requirements; and payment of an annual renewal fee of one hundred twenty-five dollars, the cost of the criminal history and background check, and any NMLSR processing fees.

Section 18 is a new section to establish continuing education requirements for mortgage loan originators. These requirements are 3 hours of federal law and regulations, 3 hours of ethics, and 2 hours of standards on non-traditional mortgage lending, with the courses reviewed and approved by the NMLSR. These continuing education requirements are specifically mandated by S.A.F.E. The section also provides time frames for receiving credit; allows credit for persons who are instructors; and provides for interstate acceptance of continuing education requirements.

Section 19 is a new section which would provide that a mortgage loan originator whose license is placed on inactive status under this section may not act as a mortgage loan originator in this state until such time as the license is reactivated. The department would be authorized to place a mortgage loan originator license on inactive status if the employee/independent relationship has been terminated; or cancellation, surrender, expiration, revocation or suspension of the employer's mortgage banker license or installment loan company license. The section provides for renewal and reactivation of an inactive license.

Section 20 is a new section which would outline employment provisions for loan originators, including supervision, limitation to employment or agency status with only one mortgage banker, office requirements, and contracts. The section authorizes a transfer notification fee of \$50 for a licensed mortgage loan originator moving from one licensee to another, and requires notification of termination within 10 days after termination.

Section 21 is a new section which would provide that the unique identifier of any person originating a residential mortgage loan shall be clearly shown on all residential mortgage loan application forms, solicitations or advertisements, including business cards or websites, and any other documents as established by rule, regulation or order of the director.

Section 22 would move and amend the current section 45-711 to provide that a mortgage banker licensee must notify the department within three business days of the following occurrences: bankruptcy; losing the ability to fund loans after it has made a loan commitment or approved a loan application; suspension or revocation procedures in any other jurisdiction; filing of a criminal indictment or information against a licensee or its principals; or certain convictions of a principal of a licensee. A 30-calendar day post notification requirement is retained for certain occurrences, including the move of branch offices.

Section 23 would move and amend the current section 45-712 to reflect the new terminology as outlined in section 4 of LB 328.

Section 24 would move and amend the current section 45-713 to reflect the new terminology as outlined in section 4 of LB 328.

Section 25 would move and amend the current section 45-714 to provide that a licensee and its officers, employees, and agents must make disclosures as required by state or federal law, and to add as a new prohibited practice that a licensee and its officers, employees or agents cannot make payments, threats, or promises for the purposes of

influencing the independent judgment of another person in connection with a residential mortgage loan, or from making any payment, threat, or promise, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property.

Section 26 would move and amend the current section 45-710. This section clarifies the director's powers to investigate applications, complaints, and reports of violations, as well as conducting examinations of licensees. This section would incorporate the powers which S.A.F.E. requires while maintaining the director's current power to issue notice of investigations to licensees and to issue subpoenas. The subpoena power is currently contained in current section 45-717.02.

Section 27 would move and amend the current section 45-707, to provide that the department could revoke or suspend a license, or impose an administrative fine, if a licensee knowingly has employed any individual or maintained a contractual relationship with any individual acting as an agent, if such individual is conducting activities requiring a mortgage loan originator license in this state without first obtaining such license. Section 27 also provides that the director may adopt procedures for the reinstatement of licenses for which a notice of expiration was issued, and that the fee for reinstatement shall be the same fee as the fee for the initial license application. This section is moved so that all sections outlining enforcement of the act are numbered consecutively.

Section 28 would move and amend the current section 45-717.01 to clarify that hearings to impose administrative fines are subject to both the Administrative Procedure Act and the department's rules of procedure. This section is moved so that all sections outlining enforcement of the act are numbered consecutively.

Section 29 would move and amend the current section 45-717, to clarify that cease and desist order hearings conducted by the department are subject to both the Administrative Procedure Act and the department's rules of procedure. Further, the language concerning statutory or common law causes of action is struck so that it could be moved to section 31. This section is moved so that all sections outlining enforcement of the act are numbered consecutively.

Section 30 would move and amend the current section 45-718 to clarify terminology and provide that appeals are governed by both the Administrative Procedures Act and any rules and regulations adopted and promulgated thereunder.

Section 31 would move and amend the current section 45-717.02, which provides for civil enforcement of the act by the Attorney General. This section would remove the language concerning subpoenas as that language has been moved to section 26 of this bill, and incorporates the language currently in section 45-717 concerning common law and statutory causes of action. These provisions were rearranged so that all provisions concerning civil actions related to the act are together in one section.

Section 32 would move and amend the current section 45-708 to provide that acting as a mortgage loan originator without a license is a Class I misdemeanor. Current law applies only to mortgage banker licensees.

Section 33 would move and amend the current section 45-723. This section authorizes the department to participate in the NMLSR and requires all mortgage bankers, registrants, and mortgage loan originators to be licensed or registered through that system. The department would be authorized to establish background checks for criminal history through fingerprint or other databases, civil or administrative records, credit history; require the payment of fees through the NMLSR; set pre-licensure education and testing and continuing education requirements as provided in the act; set renewal processing or reporting dates; and contract for the collection and maintenance of records.

The section would also require the department to report violations of the act, enforcement actions and other relevant information; requires the director to establish a process whereby mortgage bankers, registrants, and mortgage loan originators may challenge information entered into the NMLSR. These provisions are specifically mandated by the S.A.F.E. Act.

Section 34 is a new section that would set forth the provisions of confidentiality and the use of such information in the

NMLSR. Specifically, this section provides that information that regulators, including the department, place on the system remain subject to any restrictions on disclosure established by the laws of that state and by federal law. Therefore, any information placed upon the system by the department remains subject to Nebraska's public records act, so that if a person were to make a public records request regarding information provided to the system by the department, Nebraska law would govern whether such information could be released regardless of whether the department or another state agency would receive the request. Likewise, the department cannot release information placed on the system by another regulator if such information cannot be released by the laws of that state. This particular provision is mandated by S.A.F.E. and the language of this section is taken directly from S.A.F.E. This prohibition does not apply with respect to the information that is included in the NMLSR for access by the public.

Section 35 would move and amend the current section 45-715 by removing the language pertaining to the multi-state licensing system as it has been moved to section 33 of this bill.

Section 36 would move section 45-716 which is amended to use the terminology added in section 4 of LB 328.

Section 37 would move section 45-719 which is amended to use the terminology added in section 4 of LB 328.

Section 38 would move section 45-720 which is amended to use the terminology added in section 4 of LB 328.

Section 39 would move section 45-721 which is amended to use the terminology added in section 4 of LB 328.

Section 40 would provide that new sections 50 and 51 shall be assigned within the Nebraska Installment Loan Act.

Section 41 would amend section 45-1002(1) to define "breach of security," "mortgage loan originator" and "Nationwide Mortgage Licensing System and Registry" using the same definitions as in section 45-702. The section also would define "real property" as an owner-occupied single-family, two-family, three-family, or four-family dwelling which is located in this state, which is occupied, used, or intended to be occupied or used for residential purposes, and which is, or is intended to be, permanently affixed to the land. This definition currently appears in the Mortgage Bankers Registration and Licensing Act, but is being removed from that act due to an inconsistency with S.A.F.E., and therefore needed to be placed into the Nebraska Installment Loan Act due to the context in which it is used.

Section 42 would amend section 45-1007 by setting forth additional provisions regarding installment loan bond requirements for persons required to obtain a mortgage loan originator license. The amount of the bond will reflect the total dollar amount of the closed residential mortgage loans originated in this state in the preceding year in accordance with a sliding scale amount. This is mandated by the S.A.F.E. Act.

Currently, the Nebraska Installment Loan Act provides for a separate license and separate bond for each location at which an installment loan company operates in this state. This section would provide that those installment loan companies which originate mortgage loans shall provide a second bond for its mortgage loan origination activities. This second bond shall cover all mortgage loan originators and all locations. Therefore, an installment loan company with multiple locations will maintain the bonds that it currently has for each location, and then will post a supplemental bond which will cover all of their mortgage loan origination activity. This supplemental bond will be scalable to meet the requirements of S.A.F.E. Furthermore, several installment loan companies also have a mortgage banker license and currently post a separate bond for that license. Since the mortgage banker bond must be scalable, those installment loan companies may use their mortgage banker bond as their supplemental surety bond.

Section 43 would amend section 45-1008 by providing that beginning January 1, 2010, initial licenses shall remain in full force and effect until the next succeeding December 31. This is necessary in order for the department to license these entities through the Nationwide Mortgage Licensing System and Registry. Installment loan licenses currently expire annually on March 1.

Section 44 would amend section 45-1013 by providing that licenses which expire on March 1, 2010, shall be renewed until December 31, 2010. For such renewals, the department shall prorate the fees using a factor of ten-twelfths. This is

mandated in order to participate in the Nationwide Mortgage Licensing System and Registry.

Section 45 would amend section 45-1018 by changing the requirements pertaining to the submission of financial statements to the department. S.A.F.E. mandates that all entities which employ loan originators, including companies licensed under the Nebraska Installment Loan Act, must submit reports of conditions. Therefore, after March 1, 2010, installment loan companies will be required to submit reports of condition to the department which include the company's financial statements.

Section 46 would amend section 45-1019 to provide for the same cease and desist procedures as currently contained in the Mortgage Bankers Registration and Licensing Act.

Section 47 would amend section 45-1024 by deleting a reference to Mortgage Bankers Registration and Licensing Act concerning the definition of "real property" as that term is now defined in section 45-1002.

Section 48 would amend section 45-1025 to provide that any mortgage loan originator, who works as an employee or independent agent of an installment loan licensee, shall be required to obtain a mortgage loan originator license and shall be subject to the Residential Mortgage Licensing Act.

Section 49 would amend section 45-1033 by providing that director of the department may, following a hearing under the Administrative Procedure Act, and the rules and regulations adopted and promulgated by the department thereunder, suspend or revoke any installment loan license, or impose an administrative fine on a licensee for each separate violation of the act if a licensee knowingly has employed any individual or maintained a contractual relationship with any agent, if such individual is conducting activities requiring a mortgage loan originator license in this state without first obtaining such license.

Section 50 is a new section which would give the department the authority to license installment loan companies through the NMLSR, and to provide for all authorities granted to the department in section 33 of the bill with respect to mortgage bankers.

Section 51 is a new section that would set forth the provisions of confidentiality and the use of such information in the Nationwide Mortgage Licensing System and Registry. This is the same section as section 34, except that this section applies to installment loan companies.

Section 52 would amend section 76-2711 of the Foreclosure Protection Act to change the reference to the definition of real property from section 45-702 to section 45-1002.

Section 53 of the bill provides an emergency clause for LB 328. This is necessary as S.A.F.E. gives states one year to come into compliance with S.A.F.E. Without the emergency clause, the effective date of this bill would be after the date mandated for compliance by S.A.F.E.

Rich Pahls, Chairperson