



# State of New Hampshire

## Banking Department

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PETER C. HILDRETH  
BANK COMMISSIONER

ROBERT A. FLEURY  
DEPUTY BANK COMMISSIONER

June 24, 2010

DECLARATORY RULING Doc. # 9751 REDACTED VERSION Eff. 6-24-10

Re: Application of RSA 397-A S.A.F.E Act

I am writing in response to [REDACTED] concerns regarding HB 610 (2009) and its application to members of your organization. HB 610, codified in RSA 397-A, was a response to Title V of Public Law 110-289, the Housing and Economic Recovery Act of 2008 which was signed by President Bush on July 30, 2008. Title V is known as the Secure and Fair Enforcement for Mortgage Licensing Act, or the S.A.F.E. Act ("federal SAFE Act"). One of the requirements of the federal SAFE Act is that the U.S. Department of Housing and Urban Development ("HUD") must determine that New Hampshire's law complies with the minimum requirements of the federal law. If HUD makes the determination that New Hampshire's law does not meet the minimum requirements of the federal SAFE Act, HUD must establish a regulatory regime to both license and regulate individuals who meet the definition of mortgage loan originator in New Hampshire. This HUD licensing requirement would be in addition to the licensing requirement already established in New Hampshire.

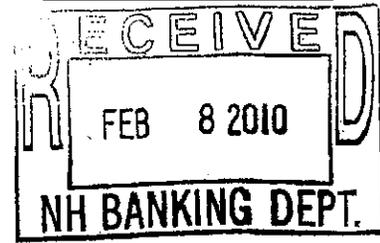
As you are aware, an exemption from mortgage loan originator licensure for employees or members of organizations such as [REDACTED] was not provided for in the federal SAFE Act. Because of the HUD determination factor mentioned above, it was not advisable to address exemptions in HB 610, but rather to address exemptions through interpretive guidance or through administrative rules clarifying what the Banking Department considers "for compensation or gain" as it affects members of non-profit entities. I have reviewed your letter dated June 2, 2010 and [REDACTED] unique operation and have determined that individuals representing [REDACTED] are not working for compensation or gain as regards mortgage loan origination and therefore are not required to be licensed pursuant to the licensing requirements in HB 610 and codified in RSA 397-A. However, if HUD should make a determination that my interpretation is inconsistent with the federal SAFE Act, or the facts upon which this determination have been made change, I reserve the right to withdraw my position to be consistent with HUD and/or the new facts. Please contact me with any questions you have concerning the above determination.

Sincerely,

[REDACTED SIGNATURE]  
for Peter C. Hildreth  
Bank Commissioner

[REDACTED]

February 2, 2010



Mr. Peter Hildreth  
Commissioner  
NH Banking Department  
53 Regional Drive, Suite 200  
Concord, NH 03301

Dear Peter,

I am writing to you today as [REDACTED] Affiliate located in [REDACTED]. As you know, the federal government passed the Safe Act and New Hampshire has passed HB610. The Safe Act deals with licensing of loan originators and HB610 is New Hampshire's implementation of the Safe Act.

The definition of mortgage loan originator is "Originator" or "mortgage loan originator" or "mortgage originator" or "loan originator" means an individual who for direct or indirect compensation or gain or in the expectation of direct or indirect compensation or gain, takes a mortgage application or offers, negotiates, solicits, arranges, or finds a mortgage loan or who assists a consumer in obtaining or applying to obtain a mortgage loan by, among other things, advising on loan terms (including rates, fees, and other costs), preparing loan packages, or collecting information on behalf of the consumer with regard to a mortgage loan or who offers or negotiates terms of a residential mortgage loan.

[REDACTED] does not charge its clients any loan origination fees in connection with the origination of the residential mortgage loan. [REDACTED] volunteers and/or employees do not receive compensation for their services in connection with the residential mortgage loan. [REDACTED] makes no profit on the sale of the houses to its clients. [REDACTED] only makes "no-interest" mortgage loans to its clients.

For [REDACTED] to have to follow the same licensing as commercial banks would impose a severe hardship and greatly impact our ability to build affordable work force housing. Several states have reviewed this matter and have issued rulings exempting [REDACTED] affiliates and their volunteers and employees from the requirements of the Safe Act. I am including two such rulings for your review and am asking that the State of New Hampshire issue a similar ruling.

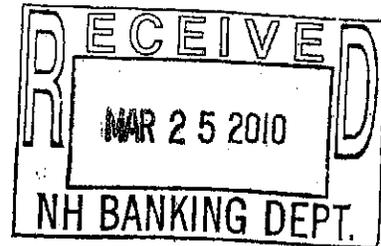
I would be more than happy to sit down with you and your staff to discuss this. If you have any questions, please call me at [REDACTED]. Thank you for your help and consideration.

Sincerely,  
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



March 23, 2010

Mr. Peter Hildreth  
NH Bank Commissioner  
53 Regional Drive, Suite 200  
Concord, New Hampshire 03301

Dear Peter,

Thank you, [redacted] for meeting with me on [redacted]. I wanted to summarize the items we discussed.

[redacted] and all [redacted] affiliates are nonprofit 501(c) 3 organizations, whose mission is to build decent, affordable homes for our neighbors in need. The officers, directors, and committee members are volunteers. Our office manager is subcontracted hourly for eight to ten hours per week for bookkeeping and administrative tasks. We raise money to build [redacted] homes through donations, grants and fund raising activities. It costs approximately [redacted] to purchase the materials and services for each home we build, and approximately [redacted] for land, water and sewerage. Some [redacted] homeowners qualify for a grant of [redacted] which is subsequently applied to the homeowners' mortgage loan to reduce the principal owed.

We solicit applications from families in the [redacted] area. A [redacted] committee reviews the applicants to insure they qualify and will be able to pay the mortgage loan provided [redacted]. Each applicant family must have a minimum income of [redacted] and a maximum of [redacted] depending on the size of the family; they must have a housing need, i.e. substandard housing; they must have lived in the [redacted] area for at least one year; and they must be willing to work [redacted] hours of sweat equity building their new home with the [redacted] volunteers. The mortgages are written for [redacted] years at [redacted] interest and cover the cost of land, water and sewerage and the cost of the materials and services used to build the home. Most of the labor is provided by volunteers. Skilled labor, such as excavation and foundation work, is contracted out. The mortgage payments we receive are used to procure materials for additional [redacted] homes and to pay our part-time office person.

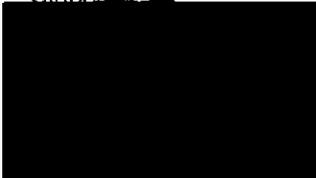
The Safe Act is designed to enhance consumer protection and to reduce fraud by licensing loan originators who offer or negotiate the terms of a residential mortgage for compensation or gain. Because all [redacted] mortgages are written at [redacted] interest and do not include any markup, I believe that [redacted] and other [redacted] affiliates should be exempt from the requirements of the Safe Act.

Licensing of [redacted] personnel would impose a burden on all [redacted] Affiliates and would impact our ability to help provide affordable housing in [redacted]. It would involve both time and money, money that could be used to build homes.

I left copies of the mortgages, an acceptance letter and the HUD document from our last closing [redacted]. If you or anyone has additional questions, please call me.

Again, thank you for your time and your staff's time. I look forward to your response.

Sincerely,



Board of Directors

