

Regular Session, 2014

HOUSE BILL NO. 807

BY REPRESENTATIVE BARRAS

FINANCIAL INSTITUTIONS: Makes changes to residential mortgage brokers and lenders law

1 AN ACT

2 To amend and reenact R.S. 6:1082, 1083(18) and (20), 1086(A)(1), 1087(F)(introductory
3 paragraph), 1088(D), (F), (G)(3)(introductory paragraph), and (J), 1088.2(A)(1) and
4 (3), 1088.3(A)(1) and (3), (C)(2)(introductory paragraph) and (b), and (D)(2),
5 1089(A), 1090(B)(1), 1092(B)(1)(e), (G), and (K), and 1099(F) and to enact R.S.
6 6:1083(11.1) and 1088(G)(3)(d), relative to mortgage servicers; to require that
7 mortgage servicers be licensed and regulated pursuant to the Louisiana Secure and
8 Fair Enforcement of Mortgage Licensing Act of 2009; and to provide for related
9 matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 6:1082, 1083(18) and (20), 1086(A)(1), 1087(F)(introductory
12 paragraph), 1088(D), (F), (G)(3)(introductory paragraph), and (J), 1088.2(A)(1) and (3),
13 1088.3(A)(1) and (3), (C)(2)(introductory paragraph) and (b), and (D)(2), 1089(A),
14 1090(B)(1), 1092(B)(1)(e), (G), and (K), and 1099(F) are hereby amended and reenacted and
15 R.S. 6:1083(11.1) and 1088(G)(3)(d) are hereby enacted to read as follows:

16 §1082. Purpose

17 The Legislature of Louisiana does hereby declare that it is in the best interest
18 of the citizens of the state to protect consumers in the most important financial
19 investment most will make, the purchase of a home, by requiring the licensing and
20 regulation of residential mortgage lenders, brokers, ~~and originators,~~ and servicers.

1 The purpose of this Chapter is to promote the safety and welfare of the people of the
2 state by providing for regulatory oversight and by establishing educational
3 requirements in a professional field in which unqualified individuals may injure or
4 mislead the public.

5 §1083. Definitions

6 As used in this Chapter:

7 * * *

8 (11.1) "Mortgage servicing" means collecting or remitting payment for
9 another, or the right to collect or remit payments for another, of any of the following:
10 principal, interest, tax, insurance, or other payment under a mortgage loan.

11 * * *

12 (18) "Residential loan transaction" means any agreement by a consumer with
13 a mortgage broker, mortgage loan originator, mortgage loan servicer, or mortgage
14 lender in connection with a residential mortgage loan.

15 * * *

16 (20) "Residential mortgage lending activity" means an activity, including
17 electronic activity, engaged in for compensation or with the expectation of
18 compensation in connection with a residential loan transaction, including the
19 origination or funding of a residential mortgage loan and the negotiation and
20 placement, or offering to negotiate, place, or fund a residential mortgage loan for
21 another person, or servicing a mortgage loan.

22 * * *

23 §1086. Licensure requirement

24 A. Except as otherwise provided in Subsection B of this Section, beginning
25 on July 31, 2009, and unless otherwise exempt pursuant to this Chapter, no person
26 shall engage in any residential mortgage lending activity in this state without first
27 obtaining and maintaining annually the following:

1 §1088.2. Application for licensure; application and renewal fees

2 A. The application shall be accompanied by the following nonrefundable
3 fees as determined by and payable to the commissioner:

4 (1) In the case of an application for a license to act as a mortgage lender, a
5 mortgage broker, mortgage servicer, or ~~both~~ combination of any, a license fee in an
6 amount not to exceed four hundred dollars.

7 * * *

8 (3) An annual license renewal fee for each person licensed as a mortgage
9 broker, ~~or mortgage lender~~, or mortgage servicer in an amount not to exceed three
10 hundred dollars.

11 * * *

12 §1088.3. Application for renewal of license; restriction; late renewal fees

13 A.(1) Each person licensed as a mortgage broker, ~~or mortgage lender~~, or
14 mortgage servicer shall submit an annual license renewal application on or before
15 December thirty-first of each year in a manner and form prescribed by the
16 commissioner.

17 * * *

18 (3) An annual renewal application shall be accompanied by the required
19 annual license renewal fee pursuant to R.S. 6:1088.1. An annual license renewal
20 application submitted after December thirty-first and before March first of the
21 following year shall be charged an annual license renewal late fee of two hundred
22 dollars for residential mortgage lenders, ~~and brokers~~, and servicers, and fifty dollars
23 for mortgage loan originators, in addition to the annual license renewal fee.

24 * * *

25 C.

26 * * *

27 (2) The commissioner shall not renew a residential mortgage broker, ~~or~~
28 lender, or servicer license for which an application for license renewal is submitted
29 for the year 2010, and shall not renew any residential mortgage lender or broker

1 license for which an application for license renewal is submitted for any year
2 thereafter, unless the commissioner finds at a minimum:

3 * * *

4 (b) The applicant for renewal of a residential mortgage lender, ~~or broker,~~ or
5 servicer license is in compliance with all final or uncontested orders of, and consent
6 agreements with the commissioner, including but not limited to, the payment of all
7 fees, penalties, or refunds.

8 D.

9 * * *

10 (2) The license of a mortgage loan broker, ~~or lender,~~ or servicer failing to
11 satisfy the minimum standards for annual license renewal in Paragraph (C)(2) of this
12 Section shall expire on December thirty-first.

13 * * *

14 §1089. Name or location changes and closures; fees

15 A.(1) No residential mortgage lender, ~~or originator,~~ or servicer shall conduct
16 the residential mortgage lending activities provided for in this Chapter under any
17 name other than the one stated in its current record of information in the licensing
18 system.

19 (2) A residential mortgage lender or servicer shall notify the commissioner
20 of a change in the location or name of the business or the addition of offices by
21 submitting such information to the licensing system prior to the change. A notice of
22 change of location or name or addition of offices shall be accompanied by a filing
23 fee of one hundred dollars.

24 (3) A residential mortgage lender or servicer shall notify the commissioner
25 of the closing of any office by submitting such information to the licensing system
26 and within thirty days of such closure.

27 * * *

1 §1090. Restrictions

2 * * *

3 B.(1) No person shall acquire or control a license to make, service, or broker
4 residential mortgage loans through the acquisition or control of fifty-one percent or
5 more of the ownership interest in a licensee without first having obtained written
6 approval from the commissioner, pursuant to an application for a change of control
7 in ownership of the licensee, filed in the manner and on a form prescribed by the
8 commissioner and accompanied by a fee of three hundred dollars. Any person who
9 acquires controlling interest in a licensee without first having filed an application for
10 change of control with the commissioner shall be deemed to be operating without
11 proper authority under this Chapter and is subject to the penalties of R.S. 6:1092(C).

12 * * *

13 §1092. Suspension and revocation of licensure; commissioner's interpretations;
14 prohibitions

15 * * *

16 B.(1) Notwithstanding any other law to the contrary, and in addition to any
17 other authority conferred upon the commissioner by any other provision of law, the
18 commissioner may upon discovery order an immediate suspension of the license of
19 any person licensed pursuant to this Chapter who:

20 * * *

21 (e) Has his license to act as a residential mortgage broker, residential
22 mortgage lender, mortgage servicer, or residential mortgage loan originator
23 suspended or revoked in this or another jurisdiction.

24 * * *

25 G. Any person who acts as a mortgage broker, mortgage lender, mortgage
26 servicer, or mortgage loan originator without complying with the licensing
27 provisions of this Chapter shall be subject to forfeiture of the compensation
28 attributable to and received by the mortgage broker, mortgage lender, mortgage
29 servicer, or mortgage loan originator in connection with residential mortgage lending

1 activity occurring on or after August 15, 2001; provided that the forfeiture of such
2 compensation by the mortgage broker, mortgage lender, mortgage servicer, or
3 mortgage loan originator shall not impair the validity of the note and mortgage.

4 * * *

5 K. Any residential mortgage lender, ~~or broker, or servicer~~ whose license
6 under this Chapter has been revoked for any reason may not reapply for a license
7 until at least five years have elapsed from the date of the order of revocation, unless
8 the commissioner, in his sole discretion, prescribes an earlier or later date. For
9 purposes of this Subsection, the order shall be considered to be the commissioner's
10 notification of revocation of the license. For the purposes of this Subsection,
11 mortgage lender, ~~or mortgage broker, or mortgage servicer~~ shall include the licensee,
12 owners of ten percent or more, and its members if the licensee is a limited liability
13 company, its partners if the licensee is a partnership, its officers and directors, if the
14 licensee is a corporation, and any other person determined by the commissioner, in
15 his sole discretion, to be closely related to the mortgage lender, ~~or broker, or~~
16 servicer.

17 * * *

18 §1099. Criminal penalties

19 * * *

20 F. A lender, broker, ~~or originator, or servicer~~ who knowingly operates
21 without a license or while not exempt from the provisions of this Chapter shall be
22 guilty of a misdemeanor and upon conviction shall be subject to a fine not less than
23 five hundred dollars and not more than one thousand dollars, or to imprisonment not
24 exceeding one year, or both.

25 Section 2. This Act shall become effective January 1, 2015.

26 Section 3. Persons required to obtain a license solely as a result of the provisions of
27 this Act shall have until June 30, 2015, to obtain the required license.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Barras

HB No. 807

Abstract: Adds licensure requirement for persons engaged in residential mortgage servicing.

Present law provides for the purpose of the La. Secure and Fair Enforcement of Mortgage Licensing Act of 2009 (SAFE Act).

Proposed law retains present law and makes the purpose applicable to mortgage servicers.

Proposed law defines "mortgage servicing" as a means of collecting or remitting payment for another, or the right to collect or remit payments for another, relative to the principal, interest, tax, insurance, or other payment under a mortgage loan.

Proposed law amends the definition of "residential loan transaction" and "residential mortgage lending activity" and adds the definition of "mortgage servicing".

Present law provides licensure requirements under the SAFE Act. Proposed law subjects mortgage servicers to the same licensure requirements.

Present law provides exemptions to proposed law. Proposed law subjects mortgage servicers to the same exemptions.

Present law provides for the application, renewal, and surety bond requirements of proposed law. Proposed law subjects mortgage servicers to the requirements.

Proposed law requires persons engaged in residential mortgage servicing to the Louisiana SAFE Mortgage Licensing Act.

Persons required to obtain a license solely because of the provisions of proposed law shall have until June 30, 2015, to do so.

Effective January 1, 2015.

(Amends R.S. 6:1082, 1083(18) and (20), 1086(A)(1), 1087(F)(intro. para.), 1088(D), (F), (G)(3)(intro. para.), and (J), 1088.2(A)(1) and (3), 1088.3(A)(1) and (3), (C)(2)(intro. para) and (b), and (D)(2), 1089(A), 1090(B)(1), 1092(B)(1)(e), (G), and (K), and 1099(F); Adds R.S. 6:1083(11.1) and 1088(G)(3)(d))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Commerce to the original bill.

1. Made technical changes.