

**STATE OF ALASKA  
THE LEGISLATURE**

**2010**

**Source**  
HJR 51

**Legislative  
Resolve No.**  
45



Supporting certain changes to proposed regulations to implement the Secure and Fair Enforcement for Mortgage Licensing Act of 2008.

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**BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

**WHEREAS** the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 was enacted into law in 2008; and

**WHEREAS** the new Act directs states to adopt licensing and registration requirements for loan originators that meet the minimum standards in the new Act, rather than directing the federal Department of Housing and Urban Development to establish and maintain a licensing system for loan originators; and

**WHEREAS** the federal Department of Housing and Urban Development has proposed regulations to implement the new Act by setting out the minimum standards for the states to meet when licensing loan originators; and

**WHEREAS** the proposed regulations should be changed to meet the mortgage licensing needs of the state; and

**WHEREAS** proposed 24 C.F.R. 3400.103(e)(5) exempts from loan originator registration requirements those individuals who offer or negotiate the terms of a loan secured

by their own residences; and

**WHEREAS** seller financing is crucial in certain markets, especially in times of economic stress, and the Act is aimed only at loan originators who engage in lending activities as a profession, not as an incidental and occasional aspect of their investment activities; and

**WHEREAS** the seller financing exemption at proposed 24 C.F.R. 3400.103(e)(5) should be broadened to exempt all sellers who provide financing for property they own, or to exempt sellers who provide financing for up to 10 properties they own in a year; and

**WHEREAS** the seller financing exemption at proposed 24 C.F.R. 3400.103(e)(5) should cover the heirs of a deceased individual who sell the inherited home even though it is not their residence; and

**WHEREAS** the exemption for licensed real estate brokerage activities at proposed 24 C.F.R. 3400.103(e)(1) generally provides an exemption from the loan originator registration requirements for an individual who performs only real estate brokerage activities and is licensed or registered under state law; and

**WHEREAS**, under the exemption at proposed 24 C.F.R. 3400.103(e)(1), confusion has arisen as to whether a licensed real estate practitioner who receives a real estate commission from a lender selling property owned because of foreclosure, or otherwise, loses that exemption, although covering the practitioner by the exemption appears to be the intent; and

**WHEREAS** the confusion at proposed 24 C.F.R. 3400.103(e)(1) can be clarified by providing in the regulation a specific example demonstrating that a licensed real estate practitioner who receives a real estate commission from a lender selling property owned because of foreclosure, or otherwise, loses that exemption only if the commission relates to the origination of a loan;

**BE IT RESOLVED** that the Alaska State Legislature urges the United States Department of Housing and Urban Development to change the proposed regulations that implement the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 to

(1) broaden the proposed exemption for seller financing in proposed 24 C.F.R. 3400.103(e)(5) to

(A) exempt all sellers who provide financing for property they own, or

to exempt sellers who provide financing for up to 10 properties they own in a year;  
and

(B) cover the heirs of a deceased individual who sell an inherited home even though it is not their residence; and

(2) clarify, in a specific example for the exemption in proposed 24 C.F.R. 3400.103(e)(1) for licensed real estate brokerage activities, that a licensed real estate practitioner who receives a real estate commission from a lender selling property owned because of foreclosure, or otherwise, loses this exemption only if the commission relates to the origination of a loan.

**COPIES** of this resolution shall be sent to the Honorable Shaun L. S. Donovan, United States Secretary of Housing and Urban Development; and the Honorable Lisa Murkowski and the Honorable Mark Begich, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.