

SAFE Act FAQ's

Q

Is a “land contract” a residential mortgage loan as defined in the Michigan Mortgage Loan Originator Licensing Act?

A

Subject to a final rule, regulation, interpretation, or formal guidance of the Federal S.A.F.E. Act from the Department of Housing and Urban Development indicating otherwise, the Michigan Office of Financial and Insurance Regulation does not currently consider a land contract, as set forth in MCL 565.351 et seq., to be included in the definition of “Residential Mortgage Loan” as it is used in the Michigan Mortgage Loan Originator Licensing Act.

However, land contracts are specifically covered by the Michigan Mortgage Brokers, Lenders, and Servicers Licensing Act and, unless otherwise exempt, an individual or business entity that brokers, makes loans on, or services land contracts is required to obtain the appropriate license or registration thereunder.

Q

Is an individual required to be licensed as a mortgage loan originator under the Michigan Mortgage Loan Originator Licensing Act if he/she does seller financing for a dwelling owned by the individual but not used as a dwelling by the individual?

A

Yes, an individual that provides seller financing in the form of a residential mortgage loan for a dwelling owned by the individual but not used as a dwelling by the individual (“non-owner occupied dwelling”) is required to be licensed.

The Michigan Mortgage Loan Originator Licensing Act provides an exemption for seller financing of the sale of their residence. Section 5(2)(c) of the Michigan Mortgage Loan Originator Licensing Act exempts from the licensing requirements an individual that provides seller financing in the form of a residential mortgage loan for a dwelling that served as their residence (OFIR interprets this to mean the seller’s current residence). There is no similar exemption for seller financing of non-owner occupied dwellings. Accordingly, a license is required to provide seller financing in the form of a residential mortgage loan for a non-owner occupied dwelling.

Q

Is a “lease with option to buy/lease to own” a residential mortgage loan as defined in the Michigan Mortgage Loan Originator Licensing Act?

A

Subject to a final rule, regulation, interpretation, or formal guidance of the Federal S.A.F.E. Act from the Department of Housing and Urban Development indicating otherwise, the Michigan Office of Financial and Insurance Regulation does not currently consider a “lease with option to buy/lease to own” to be included in the definition of “Residential Mortgage Loan” as it is used in the Michigan Mortgage Loan Originator Licensing Act.