

SENATE BILL REPORT

SB 6293

As of January 26, 2004

Title: An act relating to the mortgage broker practices act.

Brief Description: Addressing mortgage brokers.

Sponsors: Senators Murray, Prentice, Benton, Roach and Rasmussen.

Brief History:

Committee Activity: Financial Services, Insurance & Housing: 1/27/04.

SENATE COMMITTEE ON FINANCIAL SERVICES, INSURANCE & HOUSING

Staff: Fara Daun (786-7459)

Background: The Mortgage Broker Practices Act regulates the licensing and practices of persons brokering mortgages and establishes the Mortgage Brokerage Commission. Some persons who provide mortgage services are exempt or partially exempt from the act. There have been recent concerns about the ability of the director of Financial Institutions to enforce the chapter.

Summary of Bill: Federally insured persons doing business under the laws of another state are exempt from the Mortgage Broker Practices Act. The requirements on persons partially exempt from the act that relate to unfair or deceptive practices apply even if the practice is not in connection with a residential mortgage loan. Every licensed mortgage broker must at all times have a designated broker responsible for all the activities under the act.

The director of Financial Institutions will look at the financial responsibility, character, and general fitness, not only of the license applicant, but also its principals and the designated mortgage broker. Licenses have a fixed expiration date one year after issuance. The director must establish a license renewal process by rule. Surrender of a license does not affect any administrative actions arising from the licensee's acts or omissions that occurred before the surrender.

The director of Financial Institutions is authorized to enforce the laws and rules relating to mortgage brokers and may impose fines, order restitution against a licensee, or deny, suspend, revoke, or decline to renew a license for violations of the chapter. The director may order a licensee to cease and desist from conducting business or other harmful activities. The director may not suspend the license of a person who the Department of Social and Health Services certifies is not in compliance with a residential or visitation order.

The director or the director's designee has authority to investigate apparent violations of the chapter and may investigate the business. Apparent violations are those that are obvious, evident, open to view, visible, within view, plain, or known. The director and designated representatives may visit the licensee's place of business to conduct examinations and

investigations and may interview the licensee or a designated employee or independent contractor. The director's subpoena power is not reliant on a previous failure to testify or produce documents. A person subject to an examination or investigation who knowingly withholds, abstracts, removes, mutilates, destroys, or hides any information or documents is guilty of a class B felony.

There is a clarification in the exception to prohibition on fees that inure to the broker exceeding the estimate.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.