

SENATE BILL REPORT

SB 5253

As of January 25, 2005

Title: An act relating to establishing mortgage broker branch offices.

Brief Description: Establishing mortgage broker branch offices.

Sponsors: Senators Berkey, Benton, Fairley, Benson and Prentice.

Brief History:

Committee Activity: Financial Institutions, Housing & Consumer Protection:

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & CONSUMER PROTECTION

Staff: Jennifer Arnold (786-7471)

Background: A licensed mortgage broker can apply to the Department of Financial Institutions (DFI) for a duplicate license in order to establish one or more branch offices. A duplicate license will be issued, if the applicant is in "good standing," as determined by departmental rule.

Under the current "good standing" test, the department may deny, condition approval, suspend, or revoke a license if the applicant, any principal, or designated broker of the applicant commits any of the following:

- failed to pay a statutorily required fee;
- did not establish adequate bonding;
- has had their license to do business under any similar statute of this state or another state suspend, revoked, or suspended within the past five years;
- has been convicted of certain felonies or gross misdemeanors in the previous seven years;
- failed to demonstrate financial responsibility, character, and general fitness;
- omitted, misrepresented, or concealed material facts in the licensing process;
- has violated the Mortgage Broker Practices Act or the Consumer Protection Act;
- has had their business insurance canceled or revoked for cause;
- has allowed the licensed mortgage broker business to deteriorate to the extent that an application for a new license would be denied;
- has aided or abetted an unlicensed person;
- has demonstrated incompetence or negligence that poses a risk of harm;
- insolvency;
- failed to comply with a department directive or requirement;
- misrepresentation or fraud;
- has interfered with an investigation or disciplinary proceeding; or
- has not met continuing education requirements.

Summary of Bill: The "good standing" test, established by agency rule, is replaced with a statutory procedure, which governs the circumstances in which duplicate licenses for branch offices of mortgage brokers will be issued.

DFI will evaluate an applicant and issue a duplicate license as follows:

- if delinquencies on any assessment, fee, fine, or other charge exist, the duplicate license will be issued upon payment of past due amounts owed;
- if the licensee has a license that is currently suspended, revoked, or restricted, a duplicate will be issued when the suspension, revocation, or restriction is removed;
- if there are pending actions to enjoin or enforce a cease and desist order or the licensee has received departmental notice of intent to revoke, suspend, or restrict the licensee from conducting business as a licensed mortgage broker, review of the application is suspended until the charges are resolved. Further, in these circumstances, DFI must expedite the investigation and diligently and expeditiously seek a resolution.

DFI must determine whether any of the above conditions exist within five days from receipt of the application.

After evaluating the licensee based on the above conditions, if the licensee has satisfied the departmental review and a consumer complaint has not been filed against the licensee, the branch license will be issued.

Appropriation: None.

Fiscal Note: Requested on January 19, 2005.

Committee/Commission/Task Force Created: No.

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