
**Insurance, Financial Services &
Consumer Protection Committee**

HB 3268

Brief Description: Regulating residential mortgage loans.

Sponsors: Representative Kelley.

Brief Summary of Bill

- Requires persons that have an office in this state for the purpose of making a residential mortgage loan and that make a residential mortgage loan to be licensed under the Mortgage Broker Practices Act (MBPA) unless exempt under the MBPA.

Hearing Date: 1/30/08

Staff: Jon Hedegard (786-7127).

Background:

Mortgage lenders may meet criteria that requires licensing by the state as a consumer loan company or by a state or the federal government as a bank or credit union or as another type of financial lender.

Banks and credit unions must be chartered with a state or the federal government. The Department of Financial Institutions (DFI) regulates a variety of state-chartered lenders including banks and credit unions.

Persons that want to make a loan with an interest rate over the state usury rate must be licensed by the DFI under the Consumer Loan Act. These loans are often mortgage loans but may be any type of loan.

The Department of Financial Institutions (DFI) also regulates mortgage brokers under the Mortgage Broker Practices Act (MBPA). Exempt from regulation under the MBPA are:

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- commercial banks, bank holding companies, savings banks, trust companies, savings and loan associations, credit unions, insurance companies, or real estate investment trusts and their affiliates, subsidiaries, and service corporations;
- any person doing business under the Consumer Loan Act;
- an attorney licensed to practice law in this state who is not principally engaged in the business of negotiating residential mortgage loans when such attorney renders services in the course of his or her practice as an attorney;
- any person doing any act under order of any court;
- any person making or acquiring a residential mortgage loan solely with his or her own funds for his or her own investment without intending to resell the residential mortgage loans;
- a licensed real estate broker or salesperson who obtains financing for a real estate transaction in the performance of his or her duties as a broker and who receives only the customary broker's or salesperson's commission in connection with the transaction;
- any mortgage broker approved and subject to auditing by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; and
- a real estate broker who only provides certain information regarding rates, terms, and lenders in connection with a real estate mortgage financing information system.

Summary of Bill:

"Person" is defined as individuals, partnerships, associations, limited liability companies, limited liability partnerships, trusts, corporations, and other legal entities.

"Residential mortgage loan" is defined as any loan primarily for personal, family, or household use secured by a mortgage or deed of trust on residential real estate upon which is constructed or intended to be constructed a single-family dwelling or multiple-family dwelling of four or less units.

Any person making a residential mortgage loan that has an office located in this state for the purpose of making a residential mortgage loan must be licensed under the MBPA unless the MBPA provides the person an exemption from licensing.

Appropriation: None.

Fiscal Note: Requested on January 28, 2008.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.