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EXEMPTIONS FOR NONPROFIT MORTGAGE LENDERS

House Bill 5783 (Substitute H-4)
House Bill 5784 (Substitute H-1)
First Analysis (6-9-98)

Sponsor: Rep. William Byl
Committee: Urban Policy and Economic Development

THE APPARENT PROBLEM:

An increasing number of nonprofit organizations are entering the home mortgage market by providing affordable home loans on homes in distressed areas or to people who are considered bad credit risks by most other lenders. These organizations often rehabilitate properties and resell them to people with lower incomes, who might not otherwise be able to get a loan from a traditional source. The increasingly high cost of rent and the inability of many people who live at the lower end of the income scale to have reasonable access to credit makes it difficult, if not impossible, for many to purchase a home without the assistance offered by these organizations. Along with loans, many of these organizations also combine their credit granting capabilities with counseling on home ownership and how to manage a budget. This counseling often helps to reduce delinquency rates on the loans; for example, the Inner City Christian Federation (one of the oldest organizations of this type in Michigan) claims to have had only one foreclosure in its history. In addition to regular mortgages, some of these organizations grant secondary mortgages to help make down payments on the properties.

Unfortunately, as these groups become more successful and offer more mortgage loans they may be required to be licensed and registered with the Financial Institutions Bureau. Organizations that make more than 10 first mortgage loans or more than two second mortgage loans in a calendar year are generally required to register with and have a license from the bureau. The organization must then meet net worth requirements, provide surety bonds and financial statements, undergo extensive background checks, and be subject to periodic examination of its books, records, and practices. The cost of a license under the Mortgage Brokers, Lenders, and Servicers Act is $1,000 at the time of the application, and renewals of $550 plus an activity volume-based increment. For nonprofit lenders with tight budgets trying to maximize their impact on neighborhoods and relying of government programs, charitable or religious organizations, or depository institutions for funds to loan, obtaining a license would divert funds and attention from the organizations' primary purpose -- providing affordable home loans.

THE CONTENT OF THE BILLS:

The bills would amend two acts to exempt from the acts' regulatory purview certain nonprofit corporation that make mortgage loans. House Bill 5783 would amend the Mortgage Brokers, Lenders and Servicers Licensing Act (MCL 445.1675) to allow the commissioner to exempt certain nonprofit organizations that are exempt from federal income taxes under section 501(c) of the Internal Revenue Code. The nonprofit organizations would have to meet certain criteria and the commissioner would have to believe that the organization deserved the confidence of the community. In order to be eligible, the nonprofit would have to:

1) Administer a mortgage loan program funded or sponsored by one or more banks, state or federal governmental entities, or other nonprofit organizations.

2) Exclusively target its mortgage loan program to persons who would not otherwise have access to affordable mortgage loans.

3) Have the support of its local government's community development agency in its housing development efforts.

4) Limit its mortgage lending activity to a defined geographic area of the state, no larger than a county in the case of a metropolitan statistical area.

5) Have the capacity to accomplish its business plan.

6) Abstain from directly or indirectly sharing any portion of the fees paid to the organization in connection with a mortgage loan with any person.

7) Comply with state and federal law and with the spirit and intent of the act's prohibition against deceptive advertising.

8) Refrain from servicing mortgage loans. However, the commission could issue an exemption to an organization that serviced mortgage loans provided that the organization complied with the other conditions and the commissioner determined that the exemption would be in the public interest.

An organization that had received an exemption would be required to file an affidavit that it still met the conditions of the exemption no later than February 1 of every second year following the commissioner's determination that the organization should be exempt. An exempted organization would have to register or file an application for a license under the act or discontinue those activities that would require that it be licensed or registered within 90 days of failing to meet one or more of the criteria that allowed for its exemption.

In addition, the bill would clarify that the act did not apply to nonprofit corporations that make, broker or service mortgage loans in connection with a neighborhood housing program assisted under the neighborhood reinvestment corporation act.

House Bill 5784 would amend the Secondary Mortgage Loan Act (MCL 493.52) to allow for the exemption of the same nonprofit organizations as would be exempted under House Bill 5783. It would also make the same changes to the act's exception regarding the neighborhood reinvestment corporation act.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bills are expected to bring a slight increase in state costs. These costs would be related to verifying the eligibility of organizations for the exemption. The bills are not expected to impact current fee revenues, since most of the organizations that are eligible for the exemption are not currently licensed. (6-4-98)

ARGUMENTS:

For:

The bills will make it easier for nonprofit groups to continue to assist people to improve their standard of living by allowing them the opportunity to purchase homes. Rather than giving a blanket exemption to all nonprofits or granting specific exemptions to the existing nonprofits that engage in making these loans, the bill would allow for the commissioner of the Financial Institutions Bureau to determine eligibility for the exemption on a case-by-case basis.

Eligible nonprofits would be allowed to continue to make loans and would be protected from having to expend limited resources on licenses, registration and other costs needed to meet the requirements of the respective acts. The nonprofit organizations provide a valuable service, by offering affordable credit to people who might not otherwise be able to purchase a home. Given the high rates for renting property, the purchase of an appropriately priced home can lower some families' cost of living, essentially providing them with more disposable income. Home ownership helps to increase attachment to and pride in the community and the savings from the cost of renting can help to increase the family's standard of living.

All in all, the work done by these nonprofits is beneficial on many different levels and actions, like these bills, that make their efforts easier are crucial to help them maintain or even increase to positive results of these programs. Further, the bill is restrictive enough to only allow the exemption for limited groups at the discretion of the commissioner and requires the groups to confirm that they continue to meet the requirements every other year by providing an affidavit.

Against:

The bills allow a special exemption for nonprofits, giving them an unfair advantage should they compete with regular lenders. Many nonprofits are large organizations with the capacity to write loans for more than just a few low income families. An organization that doesn't have to pay license and registration fees has an advantage over other mortgage lenders that are required to pay these fees.

Response:

The bill only allows those nonprofits that exclusively target persons that do not have access to affordable mortgage loans from traditional sources and is limited to a specific area within the state. If a nonprofit began to compete more widely or for loans to other groups of people, the nonprofit would not be eligible for the exemption and would have to either register and purchase a license or quit those activities.

POSITIONS:

The Financial Institutions Bureau supports the bills. (6-4-98)

The Michigan Bankers Association supports the bills. (6-3-98)

The Inner City Christian Federation supports the bills. (6-4-98)

The Housing Resource Center supports the bills. (6-4-98)

The Local Initiatives Support Corporation supports the bills. (6-4-98)

Habitat for Humanity of Michigan supports the bills. (6-4-98)

The Michigan State Housing Development Authority supports the bills. (6-4-98)

The Michigan League of Savings Institutions does not oppose the bills. (6-4-98)

The Mortgage Bankers Association of Michigan is neutral on the bills. (6-4-98)

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