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SFA BILL ANALYSIS

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House Bill 5783 (Substitute H-4 as passed by the House)
House Bill 5784 (Substitute H-1 as passed by the House)
Sponsor: Representative William Byl
House Committee: Urban Policy and Economic Development
Senate Committee: Financial Services

Date Completed: 9-15-98

CONTENT

House Bills 5783 (H-4) and 5784 (H-1) would amend, respectively, the Mortgage Brokers, Lenders, and Servicers Licensing Act and the Secondary Mortgage Loan Act to provide exemptions from the requirements of those Acts for certain nonprofit mortgage lenders. The bills are tie-barred.

House Bill 5783 (H-4)

The bill would allow the Commissioner of the Financial Institutions Bureau (FIB) to exempt from the requirements of the Mortgage Brokers, Lenders, and Servicers Licensing Act a person the Commissioner believed merited the confidence of the community and demonstrated that it met all of the following criteria:

-- The person was exempt from Federal income taxes under Section 501(c) of the Internal Revenue Code.
-- The person administered a mortgage loan program funded or sponsored by one or more depository financial institutions, State or Federal governmental entities, or charitable, religious, or other nonprofit organizations.
-- The mortgage loan program was targeted exclusively to persons who would not otherwise have access to affordable mortgage loans from traditional mortgage lending sources.
-- Its housing development efforts had the support of the agency of its local governmental jurisdiction responsible for community development.
-- The mortgage lending activity was limited to a defined geographic area in Michigan, not larger than a county in the case of a metropolitan statistical area.
-- The person had the capacity to accomplish its business plan.
-- It did not directly or indirectly share with another person any portion of fees paid to the organization in connection with a mortgage loan.
-- The person would comply with State and Federal law and with the spirit and intent of Section 22a of the Act. (That section prohibits a licensee or registrant from making a false, misleading, or deceptive advertisement regarding mortgage loans or the availability of mortgage loans and the advertisement of any size of loan, security required, rate of charge, or other condition of lending except with the full intent of making loans at those rates or lower rates, and under those conditions.)
-- It did not service mortgage loans. (The FIB Commissioner could issue an exemption to a person that serviced mortgage loans, however, if the person complied with the rest of the

exemption criteria and the Commissioner determined that the exemption was in the public interest.)

The exemption proposed by the bill, however, would not apply to Section 23 of the Act, which allows a licensee or registrant to require a borrower to pay reasonable and necessary charges that are the actual expenses incurred by the licensee or registrant in connection with the making, closing, disbursing, extending, readjusting, or renewing of a mortgage loan and a loan processing fee. Those charges are in addition to interest authorized by law and are not a part of the interest collected or agreed to be paid. The charges are to be paid only once by the borrower to the licensee or registrant. Section 23 also provides that a licensee or registrant that assesses or accepts a fee to guarantee a specified rate of interest must state the terms and conditions of the guarantee in writing.

By February 1 of every second year following the FIB Commissioner's determination that an organization met the bill's exemption qualifications, the organization would have to file an affidavit that it continued to meet those qualifications. An organization that had been determined to meet the proposed criteria and subsequently failed to meet one or more of them would have to register or file an application for license under the Act within 90 days or discontinue activities that would require registration or licensure under the Act.

The bill also would revise an existing exemption from the Act for a nonprofit corporation established pursuant to the Federal Neighborhood Reinvestment Corporation Act. Under the bill, that exemption would apply to a nonprofit corporation that made, brokered, or serviced mortgage loans in connection with a neighborhood housing program assisted under that Federal Act.

<u>House Bill 5784 (H-1)</u>

The bill specifies that the Secondary Mortgage Loan Act would not apply to a nonprofit corporation that made or serviced secondary mortgage loans only in connection with mortgages made under a program described in House Bill 5783 (H-4), if the FIB Commissioner had determined that the nonprofit corporation was exempt from the Mortgage Brokers, Lenders, and Servicers Licensing Act that bill. (The program would have to administer a mortgage loan program funded or sponsored by one or more depository financial institutions, State or Federal governmental entities, or charitable, religious, or other nonprofit organization, and its mortgage loan program would have to be targeted exclusively to persons who would not otherwise have access to affordable mortgage loans from traditional mortgage lending sources.

House Bill 5784 (H-1) also would revise an existing exemption from the Act for a nonprofit corporation established pursuant to the Federal Neighborhood Reinvestment Corporation Act. Under the bill, that exemption would apply to a nonprofit corporation that made, brokered, or serviced mortgage loans in connection with a neighborhood housing program assisted under that Federal Act.

MCL 445.1675 et al. (H.B. 5783)
493.79a (H.B. 5784)

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bills would exempt nonprofit organizations that serve as a neighborhood housing service organization from the licensing and registration requirements for providing first and secondary mortgage services. These organizations, due to the volume restrictions, have not been required to pay these licensing and registration fees. Therefore, this exemption would allow these institutions to increase the number of mortgages offered, but would have no fiscal impact on State government.

Fiscal Analyst: M. Tyszkiewicz