

Senate Fiscal Agency
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Senate Bill 471 (as passed by the Senate)
Sponsor: Senator Burton Leland
Committee: Banking and Financial Institutions

Date Completed: 6-20-01

RATIONALE

Unless someone is licensed under the Mortgage Brokers, Lenders, and Servicers Licensing Act or the Consumer Financial Services Act, he or she is prohibited from performing mortgage-related services except as an employee of a licensed mortgage broker, lender, or servicer. The Mortgage Brokers, Lenders, and Servicers Licensing Act was created in 1987 to regulate persons engaged in making mortgage loans. The Act prohibits a person from acting as a mortgage broker, lender, or servicer without first obtaining a license or registering under the Act. A license is not required, however, if a person is solely performing services as a full-time employee of a licensed mortgage broker, lender, or servicer. (A person who is licensed under the Consumer Financial Services Act may perform services under six other licensing statutes, including the Mortgage Brokers, Lenders, and Servicers Licensing Act.) Apparently, there is some question as to whether a person who assists others in obtaining mortgage loans, called a residential mortgage originator, may be compensated for his or her services if the person is not licensed under either Act or functioning as the employee of a licensee.

CONTENT

The bill would amend the Mortgage Brokers, Lenders, and Servicers Licensing Act to prohibit a residential mortgage originator from receiving certain compensation or benefits unless the originator was otherwise licensed or registered under the Act.

The bill would define "residential mortgage originator" as a person who assisted another person in obtaining a mortgage loan.

Under the bill, unless a residential mortgage originator was otherwise licensed or registered under the Act, a residential mortgage originator could not receive directly or indirectly any compensation, commission, fee, points, or other remuneration or benefits from a mortgage broker, mortgage lender, or mortgage servicer other than the employer of the residential mortgage originator.

The bill also provides that unless a residential mortgage originator was otherwise licensed or registered under the Act, a mortgage broker, mortgage lender, or mortgage servicer could not pay directly or indirectly any compensation, commission, fee, points, or other remuneration or benefits to a residential mortgage originator other than an employee of the mortgage broker, mortgage lender, or mortgage servicer.

MCL 445.1652

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bill clarifies the circumstances under which a residential mortgage originator may be compensated for his or her services. Under the bill, residential mortgage originators could not accept compensation of any kind except from their own employers, unless the originators were individually licensed under the Consumer Financial Services Act or the Mortgage Brokers, Lenders, and Servicers Licensing Act. The bill would clearly define the role of a residential mortgage originator by

requiring a mortgage originator to be an employee of a licensed firm or individual in order to receive compensation. This would help ensure that the mortgage industry maintains high ethical standards to protect the consumer. According to the Department of Consumer and Industry Services, the bill would reflect what current law requires, alleviating confusion within the industry, and preventing attempts to evade the statutory requirements through semantics.

Legislative Analyst: N. Nagata

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: M. Tyszkiewicz

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.