

Legislative Analysis



CONSUMER FINANCIAL SERVICES; LOAN OFFICERS

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Senate Bill 379

Sponsor: Sen. Dennis Olshove

Senate Bill 380

Sponsor: Sen. Gerald Van Woerkom

Senate Bill 381

Sponsor: Sen. Bill Hardiman

House Committee: Banking and Financial Services

Senate Committee: Banking and Financial Services

Complete to 3-25-09

A SUMMARY OF SENATE BILLS 379-381 AS PASSED BY THE SENATE 3-19-09

In 2008, a bicameral, multi-bill package of legislation was enacted to require, among other things, the registration of mortgage loan officers. Senate Bills 379-381 would amend various acts to conform to that 2008 legislation.

Senate Bill 379

The bill would amend the Consumer Financial Services Act (MCL 487.2059). Under the bill, a licensee acting as a mortgage broker or mortgage lender could not employ an individual as a loan officer to originate mortgage loans unless that individual was registered as a loan officer under the Mortgage Brokers, Lenders, and Servicers Licensing Act.

Similarly, a licensee acting as a broker or lender could not employ or engage an individual as a secondary mortgage loan officer to originate secondary mortgage loans unless that individual was registered as a secondary mortgage loan officer under the Secondary Mortgage Loan Act.

Senate Bill 380

The bill would amend the Mortgage Brokers, Lenders, and Servicers Licensing Act (MCL 445.1651a). Currently, the term "licensee" is defined in the act as meaning a person licensed or required to be licensed under the act. The bill would specify that as used in Sections 2a, 2b, and 2c, the term would also include a licensee under the Consumer Financial Services Act. (The Consumer Financial Services Act allows nondepository financial services entities to obtain a single license to perform the full range of financial services covered by the Mortgage Brokers, Lenders, and Servicers Licensing Act and other acts that regulate nondepository financial services.)

[Among other things, Section 2a requires – beginning April 1, 2009 – an employee or agent of a licensee or registrant to be registered as a loan officer or be otherwise in compliance with that provision before performing the services of a loan officer. Section 2b details the renewal process for a loan officer registration. Section 2c requires a loan officer registrant to provide a written notice to the commissioner of the Office of Financial and Insurance Regulation under certain conditions; for example, if employment with a licensee or registrant is terminated.]

Further, the act currently exempts from the definition of “individual investor” a pension or profit sharing plan the assets of which are managed by one or more listed entities. One of the listed entities is a broker-dealer who is a member of the New York Stock Exchange or registered under the Uniform Securities Act. That act will be repealed October 1, 2009. The bill would therefore include a broker-dealer who is registered under the Uniform Securities Act (2002), which will take effect October 1, 2009.

Senate Bill 381

The bill would amend the Secondary Mortgage Loan Act (MCL 493.51). Currently, the act defines “licensee” as a person licensed under the act. Similarly to Senate Bill 380, the bill would include a licensee under the Consumer Financial Services Act for the purposes of Sections 2a, 2b, 2c, and 2d.

[Among other things, Section 2a requires – beginning April 1, 2009 – that unless exempted, an employee or agent of a licensee or registrant must be registered under the act in order to perform the services of a secondary loan officer. Section 2b permits certain information to be disclosed to the public; protects, beginning April 1, 2009, the use of certain titles; and specifies the conditions for which remuneration or benefits are permitted or prohibited. Section 2c details the renewal process for a secondary mortgage loan officer registration. Section 2d requires a secondary mortgage loan officer registrant to provide a written notice to the commissioner of the Office of Financial and Insurance Regulation under certain conditions; for example, if employment with a licensee or registrant is terminated.]

Further, the bill would revise the definition of “secondary mortgage loan officer” to mean an individual who is an employee or agent of a broker, lender, or servicer; who originates secondary mortgage loans; and who is not an employee or agent of a depository financial institution or a subsidiary or affiliate of one. (The proposed addition is underlined.)

FISCAL IMPACT:

The bills would have no impact on the state or local governments.

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