Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 462 (Substitute S-2 as reported by the Committee of the Whole)
Senate Bill 463 (Substitute S-2 as reported by the Committee of the Whole)
Senate Bill 464 (Substitute S-2 as reported by the Committee of the Whole)
Senate Bill 465 (Substitute S-2 as reported by the Committee of the Whole)
Sponsor: Senator Randy Richardville (S.B. 462)
Senator Tony Stamas (S.B. 463)
Senator Dennis Olshove (S.B. 464)
Senator Alan Sanborn (S.B. 465)
Committee: Banking and Financial Institutions

CONTENT

Senate Bill 462 (S-2) would create the "Mortgage Loan Originator Licensing Act" to:

-- Prohibit an individual, beginning July 31, 2010, from engaging in the business of a mortgage loan originator without obtaining and maintaining a license under the Act, with certain exceptions.
-- Exempt an individual from that requirement until July 31, 2011, if he or she were employed exclusively by a mortgage servicer to perform only loan modification services on existing residential mortgage loans.
-- Require a person applying for a license to undergo a criminal background check and submit certain personal history information.
-- Require an applicant to meet specified prelicensing education requirements, pass a written test, and post a surety bond in an amount prescribed by the Act.
-- Require a licensed mortgage loan originator to complete annual continuing education requirements, including education in Federal law and regulations, ethics, and lending standards for the nontraditional mortgage product marketplace.
-- Require the Commissioner of Financial and Insurance Regulation to establish a schedule of fees sufficient to pay the expected costs of administering and enforcing the Act, including an annual fee for each licensed mortgage loan originator.
-- Require the fees to be deposited into the Mortgage Brokers, Lenders, and Servicers Licensing Act Fund.
-- Provide that the Commissioner would have to require mortgage loan originators to be licensed and registered through the Nationwide Mortgage Licensing System and Registry.
-- Authorize the Commissioner to deny, suspend, revoke, or condition a license, order restitution, and impose a maximum civil fine of $25,000 for violations of the Act; and to issue cease and desist orders and other directives.
-- Permit the Commissioner to issue an order suspending an individual's license or prohibiting an individual from being licensed if he or she had engaged in fraud or were convicted of a felony involving fraud, dishonesty, or breach of trust; and allow a person to apply for termination of the order after five years.
-- Provide that an individual who violated a final order of suspension or prohibition would be guilty of a misdemeanor punishable by a maximum fine of $5,000 and/or imprisonment for up to one year.
-- Prohibit licensees from engaging in specified activities, such as engaging in fraud, intentionally failing to provide borrowers with material disclosures, and making a false advertisement regarding mortgage loans.

-- Permit the Commissioner to conduct investigations or examinations for the purpose of initial licensing, license removal or suspension, or investigating violations or complaints; and authorize the Commissioner to subpoena people with relevant testimony.

Senate Bill 463 (S-2) would amend the Mortgage Brokers, Lenders, and Servicers Licensing Act (MBLSLA) to require a loan officer to be registered under the proposed Mortgage Loan Originator Licensing Act, rather than under the MBLSLA as currently required.

Senate Bill 464 (S-2) would amend the Secondary Mortgage Loan Act to require a secondary mortgage loan officer to be registered under the proposed Act, rather than under the Secondary Mortgage Loan Act as currently required.

Senate Bill 465 (S-2) would amend the Consumer Financial Services Act to prohibit a licensee acting as a mortgage broker or mortgage lender from employing or engaging an individual as a loan officer to originate mortgage loans unless he or she were a licensed loan officer under the proposed Act.

Senate Bill 462 (S-2) is tie-barred to Senate Bills 463, 464, and 465, each of which is tie-barred to Senate Bill 462.

Senate Bill 462 (S-2) would take effect on July 31, 2009; the remaining bills would take effect on July 31, 2010.

MCL 445.1651a et al. (S.B. 463)
493.51 et al. (S.B. 464)
487.2059 (S.B. 465)

Legislative Analyst: Curtis Walker

FISCAL IMPACT

The bills would adjust Michigan's current system of regulation of participants in the mortgage loan industry to bring it into compliance with Federal requirements in the Secure and Fair Enforcement For Mortgage Licensing Act of 2008, which was included in the Federal Housing and Economic Recovery Act of 2008. The Commissioner of Financial and Insurance Regulation within the Department of Energy, Labor, and Economic Growth would have the authority to establish license fees for mortgage loan originators at amounts sufficient to cover the cost of administering and enforcing the regulation; however, the fee amounts would be constrained to the range permitted in the bill. Revenue from the fees would be deposited in the existing Mortgage Brokers, Lenders, and Services Licensing Act Fund and used to pay the costs of regulating the profession. Michigan currently is regulating this industry; thus, the proposed changes are not expected to result in major changes to administrative costs or revenue of the Office of Financial and Insurance Regulation.

Under Senate Bill 462 (S-2), any civil fines collected for violations would be deposited into the General Fund. The amount of civil fines would depend on the frequency of violations and the level of the fines assessed.

The bill would have an indeterminate fiscal impact on local government. There are no data to indicate how many offenders would be convicted of violating a final order of suspension or prohibition from being licensed. Local governments would incur the costs of misdemeanor probation and incarceration in local facilities, which vary by county. Additional penal fine revenue would benefit public libraries.

Date Completed: 6-23-09

Fiscal Analyst: Lindsay Hollander
Elizabeth Pratt
Maria Tyszkiewicz

floor\sb462