



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 1525 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Randy Richardville
Committee: Banking and Financial Institutions

(as enrolled)

Date Completed: 11-18-10

RATIONALE

In 2008, the U.S. Congress enacted the Secure and Fair Enforcement for Mortgage Licensing Act to require states to establish uniform regulations and minimum licensing requirements for mortgage loan originators. In response, Michigan enacted the Mortgage Loan Originator Licensing Act in 2009. With certain exceptions, the Act requires a person to be licensed in order to originate a residential mortgage loan (e.g., take a loan application or negotiate a loan) for compensation. In order to obtain a license, an applicant must meet prelicensing education requirements, pass a test, demonstrate financial responsibility, pay a fee, and post a surety bond with the Office of Financial and Insurance Regulation (OFIR). A bond may be submitted either by an individual originator or by his or her employer. Although the Act permits an employer, or broker, to post a bond for each mortgage loan originator it employs, the Act does not cap the aggregate bond amount. As a result, according to OFIR, brokers posting bonds for their employees have been required to purchase unnecessarily large bonds. It has been suggested that a broker should be able to submit a bond covering all of the mortgage loan originators it employs, based on the aggregate amount of loans closed or modified by the broker in the previous year.

loans the person closed or modified in the preceding year. The bill also would require the person to report quarterly to the Commissioner of the Office of Financial and Insurance Regulation.

Currently, the amount of coverage a surety bond must provide for a mortgage loan originator is based on the sum of the principal amounts of mortgage loans he or she closed in the preceding calendar year, as shown in Table 1. The bill would retain these provisions but refer to the amounts of mortgage loans "originated", rather than closed.

Table 1

Sum of Principal Amounts Closed in Prior Year	Coverage Amount
Less than \$12.0 million	\$10,000
\$12.0 million or more but less than \$24.0 million	\$25,000
\$24.0 million or more	\$50,000

The principal amount of a surety bond providing coverage for all of a person's mortgage loan originators would have to be one of the amounts shown in Table 2, based on the sum of the principal amounts of mortgage loans closed or modified by the person in the preceding year:

Table 2

Sum of Principal Amounts Closed or Modified in Prior Year	Bond Amount
Less than \$12.0 million	\$50,000
\$12.0 million or more but less than \$24.0 million	\$150,000
\$24.0 million or more	\$250,000

CONTENT

The bill would amend the Mortgage Loan Originator Licensing Act to specify the amount of a surety bond covering all of a person's mortgage loan originators, based on the amounts of

Before the end of a calendar quarter, a person who provided a surety bond under these provisions for its employees and exclusive agents would have to give the Commissioner a report that contained all of the following information about the surety bond in effect for the next calendar quarter:

- The person's name and unique identifier.
- The name of the surety issuing the bond.
- For each mortgage loan originator covered by the bond, his or her legal name, exactly as filed with the nationwide mortgage licensing system and registry, and unique identifier.

The Act defines "mortgage loan originator" as an individual who, for compensation or gain or in the expectation of compensation or gain, takes a residential mortgage loan application, or offers or negotiates terms of a residential mortgage loan, and meets other specified criteria. Under the bill, "mortgage loan originator" would mean an individual who originates residential mortgage loans and meets the other criteria.

"Originate" would mean do either of the following for compensation or gain, or in the expectation of compensation or gain, in connection with a residential mortgage loan:

- Take a residential mortgage loan application.
- Offer or negotiate terms of a residential mortgage loan.

MCL 493.133 & 493.159

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 would allow a company to submit one surety bond based on the principal amount of all of its mortgage loans in the preceding year, rather than submitting a surety bond based on the amount required for each mortgage loan originator. Without a cap, the cost of complying with the current surety bond requirement can be burdensome and unnecessarily high. The bill could substantially lower a company's cost of doing business, and would bring Michigan into line with other states. At the

same time, consumer protection would not be compromised.

In addition, the revised definition of "mortgage loan originator" and the proposed definition of "originate" would clear up any ambiguity about who is subject to the Act, according to OFIR.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The Office of Financial and Insurance Regulation currently requires mortgage loan originators to provide surety bonds in an amount that varies with the aggregate value of the loans originated or modified by the originators. The bill would require that the overall amount of surety bonds provided to the Commissioner meet certain minimum amounts based on the aggregate value of mortgages originated or modified by the company as a whole. Since OFIR already collects these bonds, the bill would likely result in little, if any, new costs to the Department of Energy, Labor, and Economic Growth.

Fiscal Analyst: Josh Sefton

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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.