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GOVERNOR

STATE OF MICHIGAN
OFFICE OF FINANCIAL AND INSURANCE REGULATION
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH
STANLEY "SKIP" PRUSS, DIRECTOR

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COMMISSIONER

BILL ANALYSIS

BILL NUMBER: Senate Bill 379, as introduced
TOPIC: Financial institutions; loan officers; mortgage loan officer registration requirements; require for consumer financial service companies.
SPONSOR: Senator Dennis Olshove
CO-SPONSORS: Senators: Gerald Van Woerkom, Randy Richardville and Bill Hardiman.

BILL NUMBER: Senate Bill 380 (S-2)
TOPIC: Financial institutions; loan officers; registration of consumer financial services company mortgage loan officers; allow under mortgage brokers, lenders and services act.
SPONSOR: Senator Gerald Van Woerkom
CO-SPONSORS: Senators: Randy Richardville, Bill Hardiman and Dennis Olshove

BILL NUMBER: Senate Bill 381 (S-1)
TOPIC: Financial institutions; loan officers; registration of consumer financial services company mortgage loan officers; allow under secondary mortgage brokers act.
SPONSOR: Senator Bill Hardiman
CO-SPONSORS: Senators: Gerald Van Woerkom, Randy Richardville and Dennis Olshove
COMMITTEE: Banking and Financial Institutions

Analysis Done: March 23, 2009

POSITION

The Office of Financial and Insurance Regulation (OFIR) supports this legislation.

PROBLEM/BACKGROUND

Each mortgage broker, lender, and servicer licensee or registrant is responsible for having its individual loan officers register with OFIR by April 1, 2009. Registration is required for individuals who are employees or agents of a mortgage broker, lender, or servicer, who originate mortgage loans, and who are not employees or agents of a depository financial institution, a subsidiary, or an affiliate of a depository financial institution. All applications must be submitted through the Nationwide Mortgage Licensing System (NMLS) by the company employing the loan officer. These registration requirements are not currently applicable to licensees under the Consumer Financial Services Act (CFSA).

DESCRIPTION OF BILLS

Senate Bill 379 amends 1988 PA 161, entitled "Consumer Financial Services Act (CFSA)" as follows:

- Sec. 9 – subsection (5) is added and prohibits 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 is also a loan officer registrant under the Mortgage, Brokers, Lenders and Servicers Licensing Act (MBLSLA), 1987 PA 173.
- Sec. 9 – subsection (6) is added and prohibits a licensee acting as a broker or a lender from employing or engaging an individual as a secondary mortgage loan officer to originate secondary mortgage loans unless he or she is also a secondary mortgage loan officer registrant under the Secondary Mortgage Loan Act (SMLA), 1981 PA 125.

Senate Bill 380 (S-2) amends the MBLSLA as follows:

- Sec. 1a (j) – the Uniform Securities Act (2002), 2008 PA 551 is added to the definition of "individual investor". PA 551 is effective Oct. 1, 2009.
- Sec. 1a(l) –language is added to the definition of "licensee" to ensure the amendments the legislature adopted to the MBLSLA last session requiring loan officer registration; a criminal history check; the application and renewal process; written notice of termination of employment to the commissioner; disclosure of convictions, guilty or no contest pleas for misdemeanor crimes involving embezzlement, forgery, fraud, a financial transaction or securities; etc., are also applicable to a licensee under the CFSA.
- Sec. 1a (c) - corrected the reference to the Office of Financial and Insurance Regulation and to the Department of Energy, Labor and Economic Growth.

Senate Bill 381(S-1) amends the SMLA as follows:

- Sec. 1(2)(i) – language is added to the definition of "licensee" to ensure the amendments the legislature adopted to the SMLA last session requiring loan officer registration; a criminal history check; the application and renewal process; written notice of termination of employment to the Commissioner; disclosure of convictions, guilty or no contest pleas for misdemeanor crimes involving embezzlement, forgery, fraud, a financial transaction or securities; etc., are also applicable to a licensee under the CFSA.

- Sec 1(2)(p) - clarified that secondary mortgage loan officers are not employees “or agents” of depository financial institutions or subsidiaries or affiliates of depository financial institutions.

SUMMARY OF ARGUMENTS

Pro

Last session, amendments requiring loan officer registration for those licensed under the MBLSLA and the SMLA were adopted by the legislature. Senate Bills 379, 380 (S-2) and 381(S-1) apply the same registration requirement to licensees under the CFSA, ensuring a consistent and uniform loan officer registration scheme.

Con

None

FISCAL/ECONOMIC IMPACT

OFIR has identified the following revenue or budgetary implications in the bill as follows:

(a) To the Office of Financial and Insurance Regulation:

Budgetary: OFIR requested an additional appropriation of 5 FTEs for its FY 09 budget to administer the loan officer registration provisions.

Revenue: OFIR will collect restricted revenue each year from loan officer registrants in an amount sufficient to cover the costs of administering the loan officer registration provisions.

Comments:

(b) To the Department of Energy, Labor & Economic Growth:

Budgetary: OFIR requested an additional appropriation of 5 FTEs for its FY 09 budget to administer the loan officer registration provisions.

Revenue: OFIR will collect restricted revenue each year from loan officer registrants in an amount sufficient to cover the costs of administering the loan officer registration provisions.

Comments:

(c) To the State of Michigan: None

Budgetary:

Revenue:

Comments:

(d) To Local Governments within this State: None

Comments:

OTHER STATE DEPARTMENTS

None

ANY OTHER PERTINENT INFORMATION

SBs 379, 380 and 381 passed the Senate with 37 yeas and 0 nay votes, respectively.

ADMINISTRATIVE RULES IMPACT

The proposed legislation would amend the MBLSLA, SMLA and CFSA. OFIR has general rulemaking authority under the MBLSLA, SMLA and CFSA.



Ken Ross
Commissioner

3-23-09

Date