

LEGISLATIVE BILL 217

Approved by the Governor March 11, 1993

Introduced by Landis, 46

AN ACT relating to the Mortgage Bankers Registration and Licensing Act; to amend sections 45-702, 45-709, and 45-710, Revised Statutes Supplement, 1992; to redefine a term; to provide for a surety bond; to eliminate a fidelity bond requirement; to provide that complaint files are public records as prescribed; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 45-702, Revised Statutes Supplement, 1992, be amended to read as follows:

45-702. For purposes of the Mortgage Bankers Registration and Licensing Act:

(1) Borrower shall mean the mortgagor or mortgagors under a real estate mortgage or the trustor or trustors under a deed of trust;

(2) Department shall mean the Department of Banking and Finance;

(3) Director shall mean the Director of Banking and Finance;

(4) Financial institution shall mean any person organized or chartered under the laws of this state, any other state, or the United States relating to banks, savings institutions, trust companies, savings and loan associations, or credit unions. Financial institution shall also mean an industrial loan and investment company chartered under the laws of this state or chartered under the laws of any other state and subject to similar supervision and regulation as an industrial loan and investment company chartered under the laws of this state or installment loan licensees or similar associations organized under the laws of this state and subject to supervision by the department; ~~industrial loan and investment companies, installment loan licensees, or similar associations organized under the laws of this state and subject to supervision by the department;~~

(5) Licensee shall mean any person licensed under the act;

(6) Mortgage banker shall mean any person not exempt under section 45-703 who, for compensation or gain or in the expectation of compensation or gain, directly or indirectly makes, originates, services, negotiates, acquires, sells, arranges for, or offers to make, originate, service, negotiate, acquire, sell, or arrange for ten or more mortgage loans in a calendar year;

(7) Mortgage banking business shall mean any person who employs a mortgage banker or mortgage bankers or who directly or indirectly makes, negotiates, acquires, sells, arranges for, or offers to

make, originate, service, negotiate, acquire, sell, or arrange for ten or more mortgage loans in a calendar year for compensation or gain or in the expectation of compensation or gain;

(8) Mortgage loan shall mean any loan or extension of credit secured by a lien on real property, including a refinancing of a contract of sale or an assumption or refinancing of a prior loan or extension of credit;

(9) Person shall mean an association, joint venture, joint-stock company, partnership, limited partnership, business corporation, nonprofit corporation, individual, or any group of individuals however organized;

(10) Real property shall mean an owner-occupied single-family, two-family, three-family, or four-family dwelling which is located in this state and is occupied, used, or intended to be occupied or used for residential purposes;

(11) Registered bank holding company shall mean any (a) one bank holding company registered with the department pursuant to section 8-1202 or 8-1203, (b) bank holding company as defined in section 8-902, or (c) regional out-of-state bank holding company as defined in section 8-902 and on and after January 1, 1991, any bank holding company authorized by section 8-902.02 to own or control banks in this state acting pursuant to the Bank Holding Company Act of 1963;

(12) Registrant shall mean a person registered pursuant to section 45-704; and

(13) Service shall mean accepting payments and maintenance of escrow accounts in the regular course of business in connection with a mortgage loan.

Sec. 2. That section 45-709, Revised Statutes Supplement, 1992, be amended to read as follows:

45-709. An applicant for a license shall file with the department a ~~fidelity~~ surety bond in the amount of fifty thousand dollars, furnished by a surety company authorized to do business in the State of Nebraska. The bond shall be for the use of the State of Nebraska and any Nebraska resident who may have claims or causes of action against the applicant. Submission of a rider to an existing bond indicating that the required coverage is outstanding and evidencing the beneficiaries required in this section shall satisfy the requirements of this section. The bond or a substitute bond shall remain in effect during all periods of licensing.

Sec. 3. That section 45-710, Revised Statutes Supplement, 1992, be amended to read as follows:

45-710. (1) The director may examine or investigate complaints about or reports of alleged violations by a licensee made to the director. Such investigation or examination by the director shall be restricted to acquiring information from the books, accounts, records, and files maintained by the licensee relevant to the alleged violation or complaint.

(2) In conducting an examination under this section, the

director may rely on reports made by the licensee which have been prepared within the preceding twelve months for the following federal agencies or federally related entities:

(a) The United States Department of Housing and Urban Development;

(b) The Federal Housing Administration;

(c) The Federal National Mortgage Association;

(d) The Government National Mortgage Association;

(e) The Federal Home Loan Mortgage Corporation; or

(f) The United States Department of Veterans Affairs.

(3) If the director receives a complaint or other information concerning noncompliance with the Mortgage Bankers Registration and Licensing Act by an exempt person, the director shall inform the agency having supervisory authority over the exempt person of the complaint.

(4) The total charge for an examination or investigation shall be paid by the licensee to the director within thirty days after the director has requested payment. The amount of the fee shall be based on the actual cost of the examination, including travel expenses, as determined by the director. The director may adopt and promulgate rules and regulations which provide for a charge for late payment of the fee not to exceed fifty dollars per day.

(5) Examination reports ~~and complaint files~~ shall not be deemed public records and may be withheld from the public pursuant to section 84-712.05.

(6) Complaint files shall be deemed public records.

Sec. 4. That original sections 45-702, 45-709, and 45-710, Revised Statutes Supplement, 1992, are repealed.