

HOUSE BILL REPORT

HB 1678

As Reported By House Committee On:

Financial Institutions & Insurance

Title: An act relating to standards for licensing mortgage brokers.

Brief Description: Regulating mortgage brokers.

Sponsors: Representatives L. Thomas, Smith, Wolfe, Sullivan and Zellinsky.

Brief History:

Committee Activity:

Financial Institutions & Insurance: 2/12/97, 2/17/97 [DPS].

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives L. Thomas, Chairman; Smith, Vice Chairman; Zellinsky, Vice Chairman; Wolfe, Ranking Minority Member; Grant, Assistant Ranking Minority Member; Benson; Constantine; DeBolt; Keiser; Sullivan and Wensman.

Staff: Charlie Gavigan (786-7340).

Background: Generally, a mortgage broker acts as an intermediary between a lender and a borrower. Mortgage brokers often work with many lenders to find a loan which is most suitable to a borrower.

Primarily in response to consumer complaints, the Legislature adopted a temporary Mortgage Broker Licensing Program during the 1993 session. Effective December 1, 1993, all mortgage brokers operating in Washington were required to possess a license issued by the Department of Financial Institutions (DFI). A five-member Mortgage Brokerage Commission was established to advise DFI on issues concerning the industry, and to prepare a report containing recommendations for legislation to establish a permanent mortgage brokers licensing program. The report of this commission was submitted to the Legislature in December 1993. In 1994 the Legislature made the temporary licensing program permanent within the Department of Financial Institutions.

Certain entities and persons are exempt from the mortgage brokers licensing requirements, including the following: commercial banks; bank holding companies;

savings banks; trust companies; savings and loan associations; credit unions; consumer loan companies; insurance companies; mortgage brokers approved and subject to auditing by the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, and real estate brokers providing information in connection with a computer loan origination (CLO) system. Mortgage brokers must have an office in Washington State.

Mortgage brokers must maintain a surety bond, covering anyone injured by a violation of law or choose a statutorily provided alternative.

Summary of Substitute Bill: Changes are made to the regulation of mortgage brokers. Disclosure requirements for mortgage brokers are modified: (1) disclosure of rates, fees, and other costs, including the annual percentage rate, must be made within three days of taking the application (current law requires this disclosure at the time of application); (2) disclosure requirements regarding the relationship between the mortgage broker and the lender making the residential loan are removed; and (3) disclosure must be made regarding whether, and under what conditions, lock-in fees are refundable to the borrower.

The exemption from the mortgage broker licensing requirements for mortgage brokers approved by the Government National Mortgage Association is removed.

The requirement that licensed mortgage brokers include the term "licensed mortgage broker" in any advertising directed at the general public is removed. The requirement that a licensed mortgage broker have an office in Washington is deleted. For mortgage brokers who do not have offices in Washington, court actions are to take place in Thurston County. Mortgage brokers must keep their books available at their usual place of business for 25 months instead of four years from the closing of a loan. If a mortgage broker's usual place of business is outside of Washington, the mortgage broker must keep the books in Washington, or pay expenses for the Department of Financial Institutions (DFI) to travel to examine the books. A branch manager does not have to apply for a license if a designated broker supervising the branch has a license.

The surety bond provisions are changed to give borrowers priority to make claims against the bond, and then, after borrowers have their opportunity, to allow the state and other persons to collect on the bond.

The DFI is not authorized to charge investigative fees to a mortgage broker for the processing of complaints when the investigation determines that no violation of the licensing law occurred, or if the mortgage broker satisfies the consumer and the director with a remedy and the director does not issue an order.

The Mortgage Brokerage Commission may establish a code of conduct for its members. Any commissioner may bring a motion before the commission to remove a commissioner for failing to follow the code of conduct.

Substitute Bill Compared to Original Bill: The substitute bill sets up a two-tiered system for access to the surety bond, giving the borrower priority and then allowing the state and other parties to access the bond. The original bill allowed the borrower and the state access to the bond.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: This bill makes improvements to the regulation of mortgage brokers. It deregulates and streamlines some areas that are overly restrictive. The requirement that out-of-state companies maintain an office in Washington is removed because it may be unenforceable; the Department of Financial Institutions should have subpoena power to investigate problems with out-of-state companies operating in Washington.

Testimony Against: The surety bond should be accessible to third parties, such as appraisers, who provide services but don't receive payment from the mortgage broker; out-of-state mortgage brokers cause particular concerns.

Testified: Scott Nelson, Washington Association of Mortgage Brokers (supports); Jane Hostvedt, Washington Association of Mortgage Brokers (supports); James Hruza, Citizens Mortgage, Inc. (Supports); Jim Fitzgerald, Emerald Financial (supports); Mark Thompson, Department of Financial Institutions; Jim Irish, Appraisers Coalition of Washington (opposes); Jim Tesso, Appraisers Coalition of Washington (opposes); Bill King, Appraisers Coalition of Washington (opposes); and George Nervik, National Property Service (opposes).