

Legislative Analysis



EXTEND MORTGAGE ACT LICENSING EXEMPTION TO P.E.O. EMPLOYEES FOR SINGLE BROKER/LENDER

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Senate Bill 540

Sponsor: Sen. Alan Sanborn

House Committee: Banking and Financial Services

Senate Committee: Banking and Financial Institutions

Complete to 7-11-05

A SUMMARY OF SENATE BILL 540 AS PASSED BY THE SENATE 6-29-05

The Mortgage Brokers, Lenders, and Servicers Licensing Act (MCL 445.1652) prohibits a person from acting as a mortgage broker, lender, or servicer without first obtaining a license or registering under the act. The act contains several exceptions, including when a person is solely performing services as an employee of only one mortgage broker, lender, or servicer; a person is a class I licensee under the Consumer Financial Services Act; or the act specifically exempts the person from licensure or registration. Senate Bill 540 would also exempt an individual who was an employee of a professional employer organization (PEO) solely acting as a residential mortgage originator of only one mortgage broker or lender. The bill specifies that the mortgage broker or lender would have to direct and control the activities of the individual and be responsible for all of the individual's activities and assume responsibility for the individual's actions covered by the proof of financial responsibility deposit required under the act.

[Note: Professional Employer Organization" would mean that term as defined in the Single Business Tax Act (MCL 208.4) — an organization that provides the management and administration of the human resources and employer risk of another entity by contractually assuming substantial employer rights, responsibilities, and risk through a professional employer agreement that establishes an employer relationship with the leased officers or employees assigned to the other entity by doing all of the following: maintaining the right of direction and control of employees' work, although this responsibility may be shared with the other entity; paying the employees' wages and employment taxes out of its own accounts; reporting, collecting, and depositing state and federal employment taxes for the employees; and retaining the right to hire and fire employees.]

FISCAL IMPACT:

The bill would have no fiscal impact on state or local government.

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