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BILL ANALYSIS



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Senate Bill 540 (as reported by the Committee of the Whole)
Sponsor: Senator Alan Sanborn
Committee: Banking and Financial Institutions

CONTENT

The bill would amend the Mortgage Brokers, Lenders, and Servicers Licensing Act to exempt an employee of a professional employer organization (PEO) acting as a residential mortgage originator of a mortgage broker or lender from the Act's licensure and registration requirements. The bill also specifies that the mortgage broker or lender would have to direct and control the activities of a PEO employee, and be responsible for all activities of the individual and assume responsibility for the individual's actions that were covered by the proof of financial responsibility deposit required under the Act.

The Act prohibits a person from acting as a mortgage broker, lender, or servicer without first obtaining a license or registering under the Act, unless: the person is solely performing services as an employee of only one mortgage broker, lender, or servicer; the Act specifically exempts the person from licensure or registration; or the person is a class I licensee under the Consumer Financial Services Act. The bill would include in the exemptions a person who was an employee of a PEO, solely acting as a residential mortgage originator of only one mortgage broker or lender.

"Professional employer organization" would mean that term as defined in the Single Business Tax Act (MCL 208.4); i.e., 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.
- Retaining the right to hire and fire employees.

MCL 445.1652

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

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

Date Completed: 6-29-05

Fiscal Analyst: Maria Tyszkiewicz

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Bill Analysis @ www.senate.michigan.gov

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