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BILL ANALYSIS

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Senate Bill 540 (as introduced 5-26-05)  
Sponsor: Senator Alan Sanborn  
Committee: Banking and Financial Institutions

Date Completed: 6-9-05

### **CONTENT**

The bill would amend the Mortgage Brokers, Lenders, and Servicers Licensing Act to exempt an employee of a professional employer organization (PEO) performing services as an agent of a mortgage broker, mortgage lender, or mortgage servicer from the Act's licensure or registration requirements. The bill also specifies that the mortgage broker, lender, or servicer would have the authority to direct and control the activities of an individual performing services under that provision and would have to comply with any requirements of the Act that applied to that individual.

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 one of the following applies:

- 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.
- The person is a class I licensee under the Consumer Financial Services Act (which authorizes the licensee to engage in all activities permitted under the Mortgage Brokers, Lenders, and Servicers Licensing Act; the Regulatory Loan Act; the Motor Vehicle Sales Finance Act; or the Sale of Checks Act).

The bill would add to that list a person who was an employee of a PEO, solely performing services as an agent of only one mortgage broker, lender, or servicer.

"Professional employer organization" would mean that term as defined in the Single Business Tax Act (MCL 208.4). Under that Act, a PEO is 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.

Fiscal Analyst: Maria Tyszkiewicz

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.