

Legislative Analysis



REGULATE MORTGAGE LOAN OFFICERS

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4596

Sponsor: Rep. Shanelle Jackson

Committee: Banking and Financial Services

Complete to 1-31-08

A SUMMARY OF HOUSE BILL 4596 AS INTRODUCED 4-12-07

The bill would regulate mortgage loan officers by requiring persons employed as mortgage loan officers to be licensed by the Office of Financial and Insurance Services. It would amend the Mortgage Brokers, Lenders, and Servicers Licensing Act (MCL 445.1651a et al.).

Education Requirements

To obtain a license as a mortgage loan officer (MLO), a person would have to successfully complete at least 24 hours of instruction in appraisal of real property (four hours), mortgage loan application processes (four hours), federal and state mortgage lending laws (four hours), mortgage loan underwriting (two hours), tax laws affecting mortgages (two hours), mortgage loan closing (two hours), mortgage finance (two hours), and ethics in mortgage lending (two hours). To renew a MLO license a licensee would have to complete at least six hours of continuing education within the past year.

The Office of Financial and Insurance Services would promulgate rules concerning instructor qualification, grading system, curriculum, and other related matters. Courses could be offered by a local school district, community college, college or university, or a proprietary school. Additionally, OFIS could conduct its own mortgage law clinics, meetings, or courses, and could assist educational institutions in sponsoring studies, research, and programs

Application for Licensure

The bill would require persons currently employed as a mortgage loan officer to file an application and pay the applicable application fees within 90 days after the bill's effective date. Such persons could continue to act as a mortgage loan officer until OFIS acts on the application, and would have to comply with the applicable provisions of the bill.

An application for licensure would have to include the following items: (1) current address and previous addresses in the past five years; (2) name and address of the employing mortgage broker or lender and the name and address of the employing mortgage brokers and lenders in the last five years; and (3) name and address of employing professional employer organization (PEO), if applicable.

Prior to obtaining a license, an applicant would have to successfully pass an examination developed by OFIS (or an outside testing agency) that demonstrates the applicant's competence in the rules, laws, practices, of the mortgage lending industry. Additionally, an applicant would have to show proof that the applicant has at least three years of experience in the business of mortgage brokering or lending or a related field. OFIS could further require an applicant to demonstrate the applicant's "good moral character".

Display of License

Once approved for a license, the license would be delivered to the employing mortgage broker or lender, which would have display the licensing at its place of business. If OFIS is unable to furnish a license within two week after determining each of the requirements is met, it would issue a temporary license.

Termination of Employment

Once a person's employment as a mortgage loan officer with a mortgage broker or lender is terminated, the broker or lender would have to mail the license to OFIS within five days after the date of separation. Once OFIS receives the license, a person would be prohibited from performing as mortgage loan officer.

Fees

The bill would require first-time applicants to pay an investigation fee to OFIS at the time the application is submitted. The cost of the fee would be set by OFIS, but would fall in a range between \$400 and \$1,000. (The act currently imposes an investigation fee of \$400-\$1,000 on applicants for a license as a mortgage broker, lender, or servicer. This fee is set by OFIS and is currently \$450.) In addition, the bill would require an annual operating fee, submitted at the time of application, ranging between \$250 and \$2,500 and annually set by OFIS. Like existing fee revenue, revenue from the investigation and operating fee for a mortgage loan officer license would be used solely for the operations of OFIS.

Powers and Duties of OFIS Concerning Mortgage Loan Officers

The bill would extend the powers and duties of OFIS as they currently apply to mortgage brokers, lenders, and services, to include mortgage loan officers as well. This would include the authority to issue cease and desist orders, suspend or revoke a license, issue prohibition orders, assess civil fines, require restitution, and censure a licensee.

Retention of Records

The act currently requires mortgage brokers, lenders, and servicers to maintain all books, records, accounts, and documents of the business to enable OFIS to determine whether the business complies with the act and related administrative rules. The bill specifies that

the records of mortgage loan officers would have to be maintained by their employing mortgage broker or lender.

Imposition of Costs on Borrowers

The act permits mortgage brokers, lenders, and servicers to shift the costs they incur in making, closing, disbursing, extending, readjusting, or renewing a mortgage loan onto the borrower. The bill would not extend this provision to include mortgage loan officers.

Unlicensed Activity

A person who acts as a mortgage loan officer without a license issued by OFIS would be guilty of a misdemeanor punishable by a fine of up to \$5,000 or imprisonment of up to three years, or both.

License Suspension and Revocation

The bill provides that if the license of an employing mortgage broker or lender is revoked by OFIS, the license of each employee acting as a mortgage loan officer would automatically be suspended. If a mortgage loan officer applies for a new license for the same term as the original license, the license would be issued without charge.

FISCAL IMPACT:

The bill could require 5.0 additional FTE positions, at an estimated cost of \$396,200, for the Office of Financial and Insurance Services. These costs would be supported by the investigation and annual operating fees imposed on applicants for a mortgage loan officer license.

Fiscal Analyst: Mark Wolf

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.