

House Business & Labor Committee
March 19, 2007
Senate Bill 92

Presented by:
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Montana Association of Mortgage Brokers
2007 President

SB92 is being submitted by the Banking Division and will amend the existing Montana Mortgage Broker and Loan Originator Licensing Act. The original licensing law was proposed and drafted primarily by the Montana Association of Mortgage Brokers (MAMB). We worked hand-in-hand with the Banking Division and the final bill was a product of our combined efforts. Our goal was to bring validity to our industry by increasing the level of experience, knowledge and professionalism among Montana mortgage brokers. By accomplishing this goal, we would also provide consumer protection for Montanans working with mortgage brokers.

The licensing law has been in effect since 2003. Since that time, MAMB and the Banking Division have found several sections that to be amended. Some sections need to be amended to provide clarification, some to remove items that are no longer relevant and some to provide the Banking Division with the authority they need to enforce the statute.

The proposed changes to Section 11 of the licensing law that are included in SB92 state that no mortgage broker will do the following: 1) accept any fees or compensation at closing that were not disclosed as required by state or federal law; 2) accept any fees or compensation in excess of those allowed by state or federal law; 3) sign a borrower's application or related documents on behalf of or in lieu of another mortgage broker or loan originator. These are all very important items; however, #3 is probably the most important. I believe that one of the greatest violations of the existing licensing law is loan originators operating without the appropriate license. An unlicensed, inexperienced, uneducated person originating loans is a great risk to the consumer. This change will eliminate the practice of having a licensed broker or originator sign relevant documents on behalf of an unlicensed originator.

Originally, SB92 proposed a new paragraph to Section 11 that required a disclosure containing a statement informing borrowers of their right to choose the appraiser and, in the case of a refinanced loan, the title company. The proposed amendment to SB92 deletes this paragraph in its entirety. This paragraph would be contradictory to some loan programs. For example, when doing a VA loan, the appraiser is assigned by VA and not

chosen by the borrower. The licensing law should not contain verbiage that is contradictory to loan programs that are available for Montana consumers.

Section 12 of the existing licensing law defines who is eligible to pay bona fide third party fees. Bona fide third party fees include such items as appraisals, credit reports, flood certificates, etc. Bona fide third party fees can be paid by borrowers, mortgage brokers, real estate agents and others as allowed by loan guidelines. Some loan programs allow for all closing costs to be paid by the seller, some allow for the borrower to contribute a minimum of \$500.00 to the transaction, sometimes it is an option for mortgage brokers to pay fees on behalf of the borrower. Currently the verbiage in Section 12 is too restrictive and does not reflect many options that are available in the mortgage industry. The existing licensing law only allows for these fees to be paid by the borrower. It is imperative that this section be corrected so that borrowers may take advantage of all loan programs that they are eligible for.

The board of directors for the Montana Association of Mortgage Brokers has reviewed SB92 and the proposed amendment as submitted by the Banking Division. We support this bill as amended and ask the House Business and Labor Committee to vote in favor of SB92.