

## 1 HOUSE BILL NO. 506

2 INTRODUCED BY J. WELBORN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING GUIDELINES AND REQUIREMENTS FOR THE  
5 ISSUANCE OF A CERTIFICATE OF EXEMPTION FROM THE DEPARTMENT OF ADMINISTRATION TO  
6 FEDERALLY CHARTERED SAVINGS BANKS REGISTERED WITH THE NATIONWIDE MORTGAGE  
7 LICENSING SYSTEM AND REGISTRY; AND AMENDING SECTIONS 32-9-109, 32-9-116, AND 32-9-122,  
8 MCA."

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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11

12 NEW SECTION. **Section 1. Certificate of exemption.** (1) A federally chartered savings bank that is  
13 registered with the nationwide mortgage licensing system and registry may file a written application with the  
14 department for a certificate of exemption for the purpose of:

15 (a) registering with the department, except that the application may not affect the exempt status of the  
16 applicant;

17 (b) sponsoring one or more mortgage loan originators. A mortgage loan originator eligible for licensure  
18 pursuant to this subsection (1)(b) must meet all of the following requirements:

19 (i) be covered under an exclusive written contract with, and originate residential mortgage loans solely  
20 on behalf of, the applicant;

21 (ii) hold a current insurance producer license under Title 33, chapter 17, that is not suspended or revoked;  
22 and

23 (iii) have a current notice of appointment under 33-17-231 from an insurer that controls, is controlled by,  
24 or is under common control with the applicant.

25 (c) fulfilling any reporting requirements; and

26 (d) supervising the activities of a mortgage loan originator who is licensed pursuant to this chapter and  
27 who is under exclusive contract with the applicant.

28 (2) The application for a certificate of exemption or the renewal of a certificate of exemption must be  
29 made in writing on the forms and in the manner prescribed by the department. The department may require  
30 additional information on the experience, background, honesty, truthfulness, integrity, and competency of the

1 applicant and of any responsible individual designated by the applicant.

2 (3) The department may charge a fee for processing the original or renewal application for a certificate  
3 of exemption and for other costs incurred by the department.

4 (4) An exempt federally chartered savings bank shall notify the department that it has designated a  
5 responsible individual to actively manage the activities of any mortgage loan originator licensees working under  
6 it. The responsible individual may be located in this state or in the state where the primary business of the  
7 federally chartered savings bank is conducted, and the responsible individual must have at least 3 years of  
8 experience in the business of making mortgage loans or equivalent experience in a related business. The  
9 responsible individual may supervise one or more licensed mortgage loan originators in this state.

10 (5) (a) Within 10 days after learning that a responsible individual will cease managing a licensed  
11 mortgage loan originator's activities, the responsible individual shall notify the department. Within 90 days after  
12 the department receives the notification, the exempt federally chartered savings bank shall replace the  
13 responsible individual with a person who meets the qualifications prescribed by subsection (4) and shall notify  
14 the department of the replacement.

15 (b) A certificate of exemption expires if either of the following occurs:

16 (i) the exempt federally chartered savings bank does not replace the responsible individual in the time  
17 and manner outlined in this section; or

18 (ii) the exempt federally chartered savings bank does not provide notice of replacement of the responsible  
19 individual to the department.

20 (6) Except as provided in subsection (7), after reviewing the application for a certificate of exemption and  
21 after verifying the submitted information, the department shall issue the certificate of exemption.

22 (7) The department may deny a certificate of exemption to an applicant or suspend or revoke a certificate  
23 of exemption of an exempt federally chartered savings bank if the department finds that an applicant or certificate  
24 holder has done any of the following:

25 (a) demonstrated that the applicant or certificate holder is not a person of honesty, truthfulness, and good  
26 character;

27 (b) violated any applicable law, rule, or order;

28 (c) refused or failed to furnish, within a reasonable time, any information or make any report required by  
29 the department;

30 (d) had a final judgment entered against the applicant or certificate holder in a civil action on grounds

1 of fraud, deceit, or misrepresentation and the conduct on which the judgment was based indicates that it would  
 2 be contrary to the interest of the public to permit the applicant or certificate holder to manage a loan originator;

3 (e) had an order involving fraud, deceit, or misrepresentation entered against the applicant or certificate  
 4 holder by an administrative agency of this state, the federal government, or any other state or territory of the  
 5 United States and the facts relating to the order indicate that it would be contrary to the interest of the public to  
 6 permit the applicant or certificate holder to manage a loan originator; or

7 (f) made a material misstatement or suppressed or withheld information on the application for a certificate  
 8 of exemption or on any other document required to be filed with the department.

9 (8) (a) Every federally chartered savings bank that has been issued a certificate of exemption pursuant  
 10 to this section shall deposit with the department, before doing business as a registered exempt federally chartered  
 11 savings bank, a bond executed by the federally chartered savings bank as the principal and a surety company  
 12 authorized to do business in this state as a surety. The bond must be in the amount of \$200,000. Only one bond  
 13 is required for each registered exempt federally chartered savings bank doing business in this state.

14 (b) The bond must be conditioned on the faithful compliance of the federally chartered savings bank with  
 15 the provisions of this section. The bond must be payable to any person injured by the wrongful act, default, fraud,  
 16 or misrepresentation of the federally chartered savings bank, the federally chartered savings bank's designated  
 17 responsible person, or sponsored mortgage loan originators and also must be payable to this state for the benefit  
 18 of any injured persons.

19 (c) If an injured person commences an action for a judgment to collect from a bond provided for in this  
 20 section, the injured person shall notify the department of the action in writing at the time of the commencement  
 21 of the action and shall provide copies of all documents relating to the action to the department on request.

22

23 **Section 2.** Section 32-9-109, MCA, is amended to read:

24 **"32-9-109. Experience requirements.** (1) (a) An individual may not act as a designated manager or  
 25 as a responsible individual as provided for in [section 1(4)] without a minimum of 3 years of experience working  
 26 as a mortgage loan originator or in a related field.

27 (b) ~~An~~ Unless an individual is in an exclusive arrangement with a sponsoring exempt federally chartered  
 28 savings bank, an individual applying for a license as a mortgage loan originator must have a minimum of 6  
 29 months of experience working in a related field.

30 (2) The department shall by rule establish what constitutes work in a related field. (See compiler's

1 comment regarding contingent suspension.)"

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3 **Section 3.** Section 32-9-116, MCA, is amended to read:

4 **"32-9-116. Employment or sponsorship of mortgage loan originator.** (1) A mortgage loan originator  
5 may transact business for only one employing mortgage broker, ~~or~~ one employing mortgage lender, or one  
6 exempt federally chartered savings bank licensed or registered in accordance with the provisions of this part.

7 (2) If the employment, or the sponsorship by an exempt federally chartered savings bank, of a mortgage  
8 loan originator is terminated, the mortgage broker, ~~or~~ the mortgage lender, or the exempt federally chartered  
9 savings bank shall remove sponsorship of the mortgage loan originator on the nationwide mortgage licensing  
10 system and registry within 5 business days of the termination. The mortgage loan originator's license must be  
11 placed in "Approved-Inactive" status until the license is sponsored by a mortgage broker or mortgage lender. If  
12 at the end of the next renewal period the license is not sponsored by a mortgage broker or mortgage lender, it  
13 must be automatically placed in "Terminated-Expired" status for failure to renew. The removal of sponsorship of  
14 the license of any mortgage loan originator extinguishes the right of the mortgage loan originator to engage in  
15 any residential mortgage loan origination activity until nationwide mortgage licensing system and registry  
16 procedures have been followed to sponsor the license. (See compiler's comment regarding contingent  
17 suspension.)"

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19 **Section 4.** Section 32-9-122, MCA, is amended to read:

20 **"32-9-122. Designated manager and branch office license requirements.** (1) A mortgage broker,  
21 mortgage lender, or mortgage servicer entity shall apply for a license for a main office and for every branch office  
22 through the nationwide mortgage licensing system and registry and maintain a unique identifier.

23 (2) A mortgage broker entity shall designate to the nationwide mortgage licensing system and registry  
24 an individual who is licensed by this state as a mortgage loan originator to serve as the designated manager of  
25 the main office and a separate designated manager to serve at each branch office.

26 (3) ~~A~~ Unless it has obtained a certificate of exemption pursuant to [section 1], a mortgage lender entity  
27 shall designate to the nationwide mortgage licensing system and registry for each office that originates a  
28 residential mortgage loan an individual who is licensed as a mortgage loan originator as the designated manager  
29 of the main office and shall designate a separate designated manager to serve each branch office that originates  
30 a residential mortgage loan.

1 (4) A designated manager must have 3 years of experience as either a mortgage loan originator or a  
2 registered mortgage loan originator.

3 (5) A designated manager is responsible for the operation of the business at the location under the  
4 designated manager's full charge, supervision, and control.

5 (6) A mortgage broker or mortgage lender entity is responsible for the conduct of a designated manager  
6 or mortgage loan originator while the designated manager or mortgage loan originator is employed by the  
7 mortgage broker or mortgage lender entity, including for violations of federal laws and regulations that are  
8 applicable to the origination of residential mortgage loans, violations of this part, and violations of any  
9 administrative rule adopted pursuant to this part.

10 (7) A designated manager is responsible for conduct that violates federal laws and regulations that are  
11 applicable to the origination of residential mortgage loans, violations of this part, and violations of any  
12 administrative rule adopted pursuant to this part. The designated manager's responsibility includes conduct by  
13 the designated manager and each mortgage loan originator employed by the entity while the designated manager  
14 is employed at the location that the designated manager manages.

15 (8) If the designated manager ceases to act in that capacity, within 15 days the mortgage broker or  
16 mortgage lender shall designate another individual licensed as a mortgage loan originator as designated manager  
17 and shall submit information to the nationwide mortgage licensing system and registry establishing that the  
18 subsequent designated manager is in compliance with the provisions of this part.

19 (9) If the employment of a designated manager is terminated, the mortgage broker or mortgage lender  
20 shall remove the sponsorship of the designated manager on the nationwide mortgage licensing system and  
21 registry within 5 business days of the termination.

22 (10) A mortgage servicer is responsible for the acts and omissions of its employees, agents, and  
23 independent contractors acting in the course and scope of their employment, agency, or contract. (See compiler's  
24 comment regarding contingent suspension.)"

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26 **NEW SECTION. Section 5. Codification instruction.** [Section 1] is intended to be codified as an  
27 integral part of Title 32, chapter 9, part 1, and the provisions of Title 32, chapter 9, part 1, apply to [section 1].

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