

Proposed 2009 Session Legislation

Agency Name & No: Administration 6101

Priority Number: 006 Filename: \6101\14-006

Short Title: Revise Mortgage Broker and Loan Originator Licensing Act

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1. Purpose:

The bill revises the Mortgage Broker and Loan Originator Licensing Act, 32-9-101, MCA in response to the national mortgage crisis. The amendments will provide that: material omissions or misstatements on applications are grounds for license denial or revocation; include a general fitness and character provision to qualify for licensure; amend fees for examination (currently set at \$300) to be "actual cost"; and clarify that only wholly-owned subsidiaries of financial institutions are exempt from licensure. The bill will also provide authority to the department to participate in the National Mortgage Licensing System contingent on passage of this federal legislation.

2. Background:

Pending federal legislation will require state regulatory agencies to conform with specific provisions if the state wishes to maintain its regulatory authority over mortgage broker licensees. Banking and Financial Institutions Division (BFID) does not have the authority to deny or revoke licensees for material omissions or misstatements of fact. BFID cannot currently deny a license on the basis that the business will not be operated in a fair, honest, and efficient manner. Examination reports that contain personal financial information of borrowers need to be protected. Wholly-owned subsidiaries of financial institutions are subject to governmental regulation. Entities that are not wholly-owned may not be subject to governmental regulation. 32-9-130, MCA, require a licensee to pay BFID a fee of \$300 a day for each examiner conducting an examination. The current statutory rate does not cover the cost of employee salaries, benefits, travel time, travel expenses, and lodging. BFID estimates that it loses \$400 per examination. BFID is self-funded through examination and licensing fees. BFID cannot meet its expenses unless the law is changed.

3. Fiscal Impact by Fund Type: This impact should be as specific as possible.

The licensee examined will pay the actual cost of examinations, including travel time, and expenses, actual cost of lodging, and examiner salaries, and benefits for the time spent on examinations. BFID estimates the examination cost will increase by \$400 per examination. The National Mortgage Licensing System charges licensees a small processing fee to use its licensing system.

4. Summary Checklist [Check & complete all that apply]--

Summary Checklist with checkboxes and input fields for: Housekeeping Only, Federal Requirement, Audit Recommendation, Major Legislation, Anticipated to be Controversial Legislation, Bill Draft has been included in Legislation Submittal, Supports Submitted EPP Item Number, Local Government Fiscal Impact, Increases/Decreases FTE, Revenue changes (Tax, Fee, Penalty), Leg. has been Submitted in Previous Legislative Sessions, Legislation would affect other state agencies, Special Interest Groups Affected (Montana Association of Mortgage Brokers), Other.