

CHAPTER 58--H.F.No. 990

An act relating to financial institutions; adding an exemption to licensing requirements for residential mortgage originators; providing for conformity with federal truth in lending requirements; amending Minnesota Statutes 2018, sections 58.04, subdivision 1; 58A.03, subdivision 2.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2018, section 58.04, subdivision 1, is amended to read:

Subdivision 1. **Residential mortgage originator licensing requirements.** (a) No person shall act as a residential mortgage originator, or make residential mortgage loans without first obtaining a license from the commissioner according to the licensing procedures provided in this chapter.

(b) A licensee must be either a partnership, limited liability partnership, association, limited liability company, corporation, or other form of business organization, and must have and maintain a surety bond in the amounts prescribed under section 58.08.

(c) The following persons are exempt from the residential mortgage originator licensing requirements:

(1) a person who is not in the business of making residential mortgage loans and who makes no more than three such loans, with its own funds, during any 12-month period;

(2) a financial institution as defined in section 58.02, subdivision 10;

(3) an agency of the federal government, or of a state or municipal government;

(4) an employee or employer pension plan making loans only to its participants;

(5) a person acting in a fiduciary capacity, such as a trustee or receiver, as a result of a specific order issued by a court of competent jurisdiction; ~~or~~

(6) a person exempted by order of the commissioner; or

(7) a manufactured home dealer, as defined in section 327B.01, subdivision 7 or 11b, or a manufactured home salesperson, as defined in section 327B.01, subdivision 19, that:

(i) performs only clerical or support duties in connection with assisting a consumer in filling out a residential mortgage loan application but does not in any way offer or negotiate loan terms, or hold themselves out as a housing counselor;

(ii) does not receive any direct or indirect compensation or gain from any individual or company for assisting consumers with a residential mortgage loan application, in excess of the customary salary or commission from the employer in connection with the sales transaction; and

(iii) discloses to the borrower in writing:

(A) if a corporate affiliation with a lender exists;

(B) if a corporate affiliation with a lender exists, that the lender cannot guarantee the lowest or best terms available and the consumer has the right to choose their lender; and

(C) if a corporate affiliation with a lender exists, the name of at least one unaffiliated lender.

(d) For the purposes of this subdivision, "housing counselor" means an individual who provides assistance and guidance about residential mortgage loan terms including rates, fees, or other costs.

(e) The disclosures required under paragraph (c), clause (7), item (iii), must be made on a one-page form prescribed by the commissioner and developed in consultation with the Manufactured and Modular Home Association. The form must be posted on the department's website.

Sec. 2. Minnesota Statutes 2018, section 58A.03, subdivision 2, is amended to read:

Subd. 2. **Exemptions.** (a) The following are exempt from this chapter:

(1) a registered mortgage loan originator, when acting for an entity described in section 58A.02, subdivision 12, clause (1);

(2) an individual who offers or negotiates terms of a residential mortgage loan with or on behalf of an immediate family member of the individual;

(3) an individual who offers or negotiates terms of a residential mortgage loan secured by a dwelling that served as the individual's residence;

(4) a licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of the lender, mortgage broker, or other mortgage loan originator; ~~and~~

(5) an employee of a nonprofit organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, or a local unit of government, that is not otherwise engaged in the mortgage loan business, engaged in the financing of housing for low- and moderate-income households or housing counseling under programs designed specifically for those purposes, to the extent exempted by the commissioner by rule, advisory ruling, or interpretation, after taking into consideration any law, rule, advisory ruling, or interpretation by the United States Department of Housing and Urban Development; and

(6) an employee of a manufactured home dealer, as defined in section 327B.01, subdivision 7 or 11b; or an employee of a manufactured home salesperson, as defined in section 327B.01, subdivision 19; that:

(i) performs only clerical or support duties in connection with assisting a consumer in filling out a residential mortgage loan application but does not in any way offer or negotiate loan terms, or hold themselves out as a housing counselor;

(ii) does not receive any direct or indirect compensation or gain from any individual or company for assisting consumers with a residential mortgage loan application, in excess of the customary salary or commission from the employer in connection with the sales transaction; and

(iii) discloses to the borrower in writing:

(A) if a corporate affiliation with a lender exists;

(B) if a corporate affiliation with a lender exists, that the lender cannot guarantee the lowest or best terms available and the consumer has the right to choose their lender; and

(C) if a corporate affiliation with a lender exists, the name of at least one unaffiliated lender.

(b) For the purposes of this subdivision, "housing counselor" means an individual who provides assistance and guidance about residential mortgage loan terms including rates, fees, or other costs.

(c) The disclosures required under paragraph (a), clause (6), item (iii), must be made on a one-page form prescribed by the commissioner and developed in consultation with the Manufactured and Modular Home Association. The form must be posted on the department's website.

Presented to the governor May 22, 2019

Signed by the governor May 22, 2019, 1:49 p.m.