

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 380

FINAL READING

Introduced by Pahls, 31

Read first time January 16, 2007

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to the Mortgage Bankers Registration and
2 Licensing Act; to amend sections 45-705 and 45-706,
3 Revised Statutes Supplement, 2007; to change a license
4 application requirement; to harmonize provisions; and to
5 repeal the original sections.

6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 45-705, Revised Statutes Supplement,
2 2007, is amended to read:

3 45-705 (1) No person shall act as a mortgage banker or
4 use the title mortgage banker in this state unless he, she, or it
5 is licensed or has registered with the department as provided in
6 the Mortgage Bankers Registration and Licensing Act or is licensed
7 under the Nebraska Installment Loan Act.

8 (2) Applicants for a license as a mortgage banker shall
9 submit to the department an application on forms prescribed by
10 the department. The application shall include, but not be limited
11 to, (a) the applicant's corporate name and no more than one trade
12 name or doing business as designation, if applicable, (b) the
13 applicant's main office address, (c) all branch office addresses
14 at which business is to be conducted, (d) the names and titles
15 of each director and principal officer of the applicant, (e) the
16 names of all shareholders, partners, or members of the applicant,
17 (f) a description of the activities of the applicant in such detail
18 as the department may require, and (g) if the applicant is an
19 individual, his or her social security number.

20 (3) The application for a license as a mortgage banker
21 shall include or be accompanied by, in a manner as prescribed by
22 the director, (a) the name and street address in this state of a
23 registered agent appointed by the licensee for receipt of service
24 of process and (b) the written consent of the registered agent
25 to the appointment. A post office box number may be provided in

1 addition to the street address.

2 (4) The application for a license as a mortgage banker
3 shall be accompanied by an application fee of four hundred dollars
4 and, if applicable, a seventy-five-dollar fee for each branch
5 office listed in the application and any processing fee allowed
6 under subsection (3) of section 45-715.

7 (5) The director may prescribe that the application for
8 a license as a mortgage banker include or be accompanied by, in
9 a manner as prescribed by the director, a background investigation
10 of each applicant by means of fingerprints and a check of his or
11 her criminal history record information maintained by the Federal
12 Bureau of Investigation through the Nebraska State Patrol. If the
13 applicant is a partnership, association, corporation, or other
14 form of business organization, the director may require a criminal
15 history record information check on each member, director, or
16 principal officer of each applicant or any individual acting
17 in the capacity of the manager of an office location. The
18 applicant shall be responsible for the direct costs associated
19 with criminal history record information checks performed. The
20 information obtained thereby may be used by the director to
21 determine the applicant's eligibility for licensing under this
22 section. Except as authorized pursuant to subsection (3) of section
23 45-715, receipt of criminal history record information by a private
24 person or entity is prohibited.

25 (6) A license granted under the Mortgage Bankers

1 Registration and Licensing Act shall not be assignable.

2 (7) An application is deemed filed when accepted as
3 substantially complete by the director.

4 Sec. 2. Section 45-706, Revised Statutes Supplement,
5 2007, is amended to read:

6 45-706 (1) Upon the filing of an application for a
7 license, if the director finds that the character and general
8 fitness of the applicant, the members thereof if the applicant
9 is a partnership, limited liability company, association, or other
10 organization, and the officers, directors, and principal employees
11 if the applicant is a corporation are such that the business
12 will be operated honestly, soundly, and efficiently in the public
13 interest consistent with the purposes of the Mortgage Bankers
14 Registration and Licensing Act, the director shall issue a license
15 as a mortgage banker to the applicant. The director shall approve
16 or deny an application for a license within ninety days after (a)
17 acceptance of the application; (b) delivery of the bond required
18 under section 45-709; and (c) payment of the required fee.

19 (2) If the director determines that the license should be
20 denied, the director shall notify the applicant in writing of the
21 denial and of the reasons for the denial. The director shall not
22 deny an application for a license because of the failure to submit
23 information required under the act or rules and regulations adopted
24 and promulgated under the act without first giving the applicant
25 an opportunity to correct the deficiency by supplying the missing

1 information. A decision of the director denying a license pursuant
2 to the act may be appealed, and the appeal shall be in accordance
3 with the Administrative Procedure Act. The director may deny an
4 application for a license if an officer, director, shareholder
5 owning five percent or more of the voting shares of the applicant,
6 partner, or member was convicted of, pleaded guilty to, or was
7 found guilty after a plea of nolo contendere to (a) a misdemeanor
8 under any state or federal law which involves dishonesty or fraud
9 or which involves any aspect of the mortgage banking business,
10 financial institution business, or installment loan business or (b)
11 any felony under state or federal law.

12 (3) (a) All initial licenses shall remain in full force
13 and effect until the next succeeding March 1. Beginning January
14 1, 2008, initial licenses shall remain in full force and effect
15 until the next succeeding December 31. Thereafter, licenses may be
16 renewed annually by filing with the director an application for
17 renewal containing such information as the director may require to
18 indicate any material change in the information contained in the
19 original application or succeeding renewal applications, including
20 the information ~~required by~~ submitted under subsection (3) of
21 section 45-705.

22 (b) Except as provided in subdivision (3) (c) of this
23 section, for the annual renewal of a license to conduct a
24 mortgage banking business under the Mortgage Bankers Registration
25 and Licensing Act, the fee shall be two hundred dollars plus

1 seventy-five dollars for each branch office, if applicable, and any
2 processing fee allowed under subsection (3) of section 45-715.

3 (c) Licenses which expire on March 1, 2008, shall be
4 renewed until December 31, 2008, upon compliance with subdivision
5 (3)(a) of this section. For such renewals, the department shall
6 prorate the fees provided in subdivision (3)(b) of this section
7 using a factor of ten-twelfths.

8 (4) The director may require a licensee to maintain a
9 minimum net worth, proven by an audit conducted by a certified
10 public accountant, if the director determines that the financial
11 condition of the licensee warrants such a requirement or that the
12 requirement is in the public interest.

13 Sec. 3. Original sections 45-705 and 45-706, Revised
14 Statutes Supplement, 2007, are repealed.