



Hundredth Legislature - First Session - 2007
Introducer's Statement of Intent
LB 129

Chairperson: Rich Pahls
Committee: Banking, Commerce and Insurance
Date of Hearing: February 5, 2007

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

LB 129 is a bill introduced at the request of the Nebraska Department of Banking and Finance. Its primary purpose is to update the Mortgage Bankers Registration and Licensing Act and to authorize Nebraska's participation in a nationwide uniform system of electronic licensing of the entities that are involved in the making of residential real estate loans in Nebraska.

The bill would update section 45-702 which is the definitional section of the act. Section 2 of the bill adds definitions for the terms "branch office" and "control."

The proposed definition of branch office includes offices located in Nebraska, which is a move of language currently contained in section 45-711(9)(g), and adds (i) offices located out-of-state that intend to transact business with Nebraska residents and (ii) third party or home-based locations intended for use by agents and representatives of a mortgage banker to transact business with Nebraska residents. This updated definition will allow the department to coordinate with branch office licensing procedures being set up as part of the nationwide system, and will provide the department with clear jurisdiction over all locations that conduct Nebraska mortgage banking business.

Control would be defined to include those who have the power to direct the management or policies of an entity, persons who hold certain company positions, and persons with a specified minimum amount of stock ownership or capital contributions. This definition is based on language suggested in connection with the uniform electronic licensing system. This provision coordinates with section 9, which would require the department's approval of a change of control of a licensee.

Section 3 would update the initial mortgage banker license application process set forth in section 45-705 by establishing a branch office fee of \$75 per branch, clarifying when an application is considered filed with the department, and providing authority for the department to require a fingerprint check and a criminal history check of an applicant and its officers, directors and members. The background information would be collected and processed as part of the nationwide licensing system authorized in section 8.

Section 4 would provide procedures for the implementation of Nebraska's participation in a nationwide licensing system by changing the March 1 annual license renewal date to December 31, and providing for the issuance and renewal of licenses during the 2008 interim period. This section, which amends section 45-706, would also provide a pro rata fee for certain renewals during this time and for collection of an annual \$75 renewal fee for branch offices.

Section 5 would update section 45-708 by providing a Class I misdemeanor penalty for persons who have been convicted of, or pled no contest to, certain misdemeanors or any felony, and who become employed by, or act as agents for, mortgage bankers. Mortgage bankers are already prohibited from employing and contracting with these persons. However, since it is not currently illegal for the individual to be an employee or agent of the mortgage banker, enforcement is difficult and the law has been ignored.

Section 6 coordinates with the amendments in section 3 of LB 129 relating to branch offices. Section 6 updates section 45-711 by providing for an application form for the establishment of these offices.

Section 7 would amend section 45-714 by prohibiting licensees and their employees and agents from obtaining a signature on a document required to be notarized when a notary is not present. A violation of this provision will be a Class III misdemeanor.

Section 8 would authorize the state's participation in a new nationwide electronic system of licensing for mortgage banker entities. The proposed amendments to section 45-715 would allow the department to participate in a system which will collect and share information about applicants, collect the state's fees for licensing, charge and collect a system processing fee, and process and maintain applicant and licensee records. This system is intended to increase efficiencies for applicants and regulators.

Section 9 is a new section which would provide for change of control notice procedures for mortgage banker licensees, including a fee of \$200, financial and fitness standards, and a maximum sixty-day review period.

Principal Introducer:

Senator Rich Pahls