



2009 ASSEMBLY BILL 765

February 22, 2010 – Introduced by Representatives FIELDS and PARISI. Referred to Committee on Financial Institutions.

1 **AN ACT to repeal** 224.71 (3) (b) 7. and 224.71 (4) (b) 9. and (6) (b) 4.; **to renumber**
2 **and amend** 224.72 (4) (a) 2.; **to amend** 224.72 (4) (a) 4.; and **to create** 224.72
3 (4) (a) 2. a. and b. of the statutes; **relating to:** licensing requirements for
4 mortgage bankers and mortgage brokers.

Analysis by the Legislative Reference Bureau

Under current law, a person may not act as a mortgage banker, mortgage broker, or mortgage loan originator unless the person is licensed as such with the Division of Banking in the Department of Financial Institutions (division). A mortgage banker is, with certain exceptions, a person who originates residential mortgage loans (loans) for itself or for another person; sells loans or interests in loans to another person; or services loans or provides escrow services. A mortgage broker is, with certain exceptions, a person who, on behalf of a loan applicant or an investor and for commission or other compensation, finds a loan or negotiates a loan or loan commitment. A mortgage loan originator is, with certain exceptions, an individual who takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan for compensation or gain. State and federally chartered financial institutions are not mortgage bankers or mortgage brokers. In 2009 Wisconsin Act 2 (Act 2), provisions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 were adopted into state law. Act 2 made extensive changes related to the regulation of mortgage loan originators and also made some changes related to the regulation of mortgage bankers and mortgage brokers,

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including changes related to minimum net worth and bonding amounts for mortgage bankers and mortgage brokers.

Under current law (after Act 2), an applicant for a mortgage banker license must file with the division a bond in the amount of \$300,000 to secure the applicant's faithful performance of duties and obligations and must submit evidence of a minimum net worth of \$250,000. An applicant for a mortgage broker license must file with the division a bond in the amount of \$120,000 to secure the applicant's faithful performance of duties and obligations and must submit evidence of a minimum net worth of \$100,000.

This bill reduces, with one exception, the amount of the bond and net worth requirements for mortgage banker and mortgage broker applicants. Under the bill, an applicant for a mortgage banker license must file a bond in an amount that ranges from \$100,000 to \$300,000, depending on the annual amount of the mortgage banker's loan originations, and must submit evidence of a minimum net worth of \$100,000. An applicant for a mortgage broker license must file a bond in an amount that ranges from \$50,000 to \$100,000, depending on the annual amount of the mortgage broker's loan originations, and must submit evidence of a minimum net worth of \$50,000.

Under current law, there are exceptions that expressly exclude the Department of Veterans Affairs (DVA), when administering its veterans housing loan program, from being considered a mortgage banker or mortgage broker and that exclude its employees from being considered mortgage loan originators.

This bill eliminates these exceptions applicable to DVA and its employees.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 224.71 (3) (b) 7. of the statutes is repealed.

2 **SECTION 2.** 224.71 (4) (b) 9. and (6) (b) 4. of the statutes, as created by 2009
3 Wisconsin Act 2, are repealed.

4 **SECTION 3.** 224.72 (4) (a) 2. of the statutes, as affected by 2009 Wisconsin Act
5 2, is renumbered 224.72 (4) (a) 2. (intro.) and amended to read:

6 224.72 (4) (a) 2. (intro.) File with the division a commercial surety bond which
7 is in the amount of ~~\$300,000 for a mortgage banker or \$120,000 for a mortgage~~
8 ~~broker, that~~ is issued by a surety company authorized to do business in this state,
9 secures the applicant's faithful performance of all duties and obligations of a
10 mortgage banker or mortgage broker, is payable to the division for the benefit of

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1 persons to whom the mortgage banker or mortgage broker provided services as a
2 mortgage banker or mortgage broker, is issued on a form that is acceptable to the
3 division ~~and~~, provides that the bond may not be terminated without at least 30 days'
4 written notice to the division~~., and is in the following amount:~~

5 **SECTION 4.** 224.72 (4) (a) 2. a. and b. of the statutes are created to read:

6 224.72 (4) (a) 2. a. For a mortgage banker, \$100,000 if the mortgage banker has
7 residential mortgage loan originations in a calendar year of less than \$10,000,000;
8 \$200,000 if the mortgage banker has residential mortgage loan originations in a
9 calendar year of at least \$10,000,000 but less than \$50,000,000; and \$300,000 if the
10 mortgage banker has residential mortgage loan originations in a calendar year of at
11 least \$50,000,000.

12 b. For a mortgage broker, \$50,000 if the mortgage broker has residential
13 mortgage loan originations in a calendar year of less than \$10,000,000; \$75,000 if the
14 mortgage broker has residential mortgage loan originations in a calendar year of at
15 least \$10,000,000 but less than \$50,000,000; and \$100,000 if the mortgage broker
16 has residential mortgage loan originations in a calendar year of at least \$50,000,000.

17 **SECTION 5.** 224.72 (4) (a) 4. of the statutes, as affected by 2009 Wisconsin Act
18 2, is amended to read:

19 224.72 (4) (a) 4. Submit evidence that establishes, to the division's satisfaction,
20 a minimum net worth of ~~\$250,000~~ \$100,000 for a mortgage banker or ~~\$100,000~~
21 \$50,000 for a mortgage broker. Evidence of net worth shall include the submission
22 of recent financial statements accompanied by a written statement by an
23 independent certified public accountant attesting that he or she has reviewed the
24 financial statements in accordance with generally accepted accounting principles.

25 (END)