

1989 Assembly Bill 134

Date of enactment: **September 1, 1989**
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1989 WISCONSIN ACT 45

AN ACT to renumber 440.72 (1); to renumber and amend 440.71 (1); to amend 440.71 (2) (b) 1 and 2, 440.71 (3) (a) 3, 440.71 (3) (b) 1 and 2, 440.72 (4) (b), 440.72 (5) (b) 1, 440.72 (7) and 440.80 (1); and to create 440.71 (1g), 440.71 (1r) (b) 4 and 5, 440.71 (3) (b) 4 and 5, 440.72 (1) and 440.72 (4) (c) of the statutes, relating to: changes in mortgage banking registration requirements.

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

SECTION 1. 440.71 (1) of the statutes is renumbered 440.71 (1r), and 440.71 (1r) (b) 1. and 2., as renumbered, are amended to read:

440.71 (1r) (b) 1. A The Wisconsin housing and economic development authority, or a bank, trust company, savings bank, savings and loan association, insurance company, or a land mortgage or farm loan association organized under the laws of this state or of the United States, when engaged in the transaction of business within the scope of its corporate powers as provided by law.

2. A credit union which negotiates loans secured by ~~real estate mortgages~~ or any licensee under ch. 138 which negotiates loans secured by ~~real estate mortgages~~ or any licensed attorney who, incidental to the general practice of law, negotiates or offers or attempts to negotiate a loan, ~~secured or to be secured by mortgage or other transfer of or encumbrance on real estate.~~

SECTION 2. 440.71 (1g) of the statutes is created to read:

440.71 (1g) "Loan" means a loan secured by a lien or mortgage, or equivalent security interest, on real property.

SECTION 3. 440.71 (1r) (b) 4. and 5. of the statutes are created to read:

440.71 (1r) (b) 4. A landlord who, in connection with leasing real property, makes a loan to a tenant that is

secured by leasehold improvements that are fixtures or improvements to real property.

5. An employe or agent of persons described in subd. 4 if the employe or agent is performing his or her duties in making leasehold improvement loans in connection with leasing real property.

SECTION 4. 440.71 (2) (b) 1. and 2. of the statutes are amended to read:

440.71 (2) (b) 1. A The Wisconsin housing and economic development authority, or a bank, trust company, savings bank, savings and loan association, insurance company, or a land mortgage or farm loan association organized under the laws of this state or of the United States, when engaged in the transaction of business within the scope of its corporate powers as provided by law.

2. A credit union which negotiates loans secured by ~~real estate mortgages~~ or any licensee under ch. 138 which negotiates loans secured by ~~real estate mortgages~~ or any licensed attorney who, incidental to the general practice of law, negotiates or offers or attempts to negotiate a loan, ~~secured or to be secured by mortgage or other transfer of or encumbrance on real estate.~~

SECTION 5. 440.71 (3) (a) 3. of the statutes is amended to read:

440.71 (3) (a) 3. Services ~~mortgage~~ loans or land contracts or provides escrow services, for another person and for commission, money or other thing of value.

SECTION 6. 440.71 (3) (b) 1. and 2. of the statutes are amended to read:

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440.71 (3) (b) 1. A The Wisconsin housing and economic development authority, or a bank, trust company, savings bank, savings and loan association, insurance company, or a land mortgage or farm loan association organized under the laws of this state or of the United States, when engaged in the transaction of business within the scope of its corporate powers as provided by law.

2. A credit union which negotiates loans secured by ~~real estate mortgages~~ or any licensee under ch. 138 which negotiates loans secured by ~~real estate mortgages~~ or any licensed attorney who, incidental to the general practice of law, negotiates or offers or attempts to negotiate a loan, ~~secured or to be secured by mortgage or other transfer of or encumbrance on real estate.~~

SECTION 7. 440.71 (3) (b) 4. and 5. of the statutes are created to read:

440.71 (3) (b) 4. A landlord who, in connection with leasing real property, makes a loan to a tenant that is secured by leasehold improvements that are fixtures or improvements to real property.

5. An employe or agent of persons described in subd. 4 if the employe or agent is performing his or her duties in making leasehold improvement loans in connection with leasing real property.

SECTION 8. 440.72 (1) of the statutes is renumbered 440.72 (1m).

SECTION 9. 440.72 (1) of the statutes is created to read:

440.72 (1) DEFINITIONS. In this section:

(a) "Net worth" means total tangible assets less total liabilities of a person, or, if the person is a natural person, total tangible assets less total liabilities exclusive of the person's principal residence and its furnishings and personal use vehicles.

(b) "Warehouse line of credit" means a line of credit to fund loans held for sale to other persons.

SECTION 10. 440.72 (4) (b) of the statutes is amended to read:

440.72 (4) (b) *File a bond.* File with the department a bond which is in the amount of ~~\$100,000~~ \$25,000, is furnished by a ~~surety~~ company authorized to do business in this state and is approved by the department.

SECTION 11. 440.72 (4) (c) of the statutes is created to read:

440.72 (4) (c) *Minimum net worth.* Submit evidence that establishes, to the department's satisfaction, a mini-

imum net worth of \$25,000 and a warehouse line of credit of not less than \$250,000 or a minimum net worth of \$100,000.

SECTION 12. 440.72 (5) (b) 1. of the statutes is amended to read:

440.72 (5) (b) 1. Upon receiving a properly completed application for registration as a mortgage banker, the application fee and satisfactory evidence of ~~approval as a mortgagee or a bond, as required under~~ compliance with sub. (4), the department shall issue to the applicant a temporary certificate of registration as a mortgage banker. A temporary certificate of registration is valid for 6 months after the date of issuance.

SECTION 13. 440.72 (7) of the statutes is amended to read:

440.72 (7) RENEWAL OF REGISTRATION. A loan originator, loan solicitor or mortgage banker shall renew a certificate of registration by submitting to the department a renewal application and the renewal fee set by the department under s. 440.83, on or before December 31 of the even-numbered year after issuance of the certificate. An applicant for renewal of a certificate of registration as a mortgage banker shall, as part of the application, refile a bond ~~which that~~ satisfies sub. (4) (b) or resubmit evidence ~~to the department's satisfaction that the federal department of housing and urban development has approved that person as a mortgagee~~ satisfies sub. (4) (a) or (c).

SECTION 14. 440.80 (1) of the statutes is amended to read:

440.80 (1) PENALTIES. A person who violates s. 440.72 ~~(1) (1m)~~ may be fined not more than \$1,000 or imprisoned for not more than 6 months or both. The district attorney of the county where the violation occurs shall enforce the penalty under this subsection on behalf of the state.

SECTION 15. Nonstatutory provisions; additional mortgage banker applicant requirement. A mortgage banker applicant may, in lieu of the requirements in section 440.72 (4) (a) to (c) of the statutes, as affected by this act, submit an affidavit stating that the applicant was actively engaged as a mortgage banker, as defined in section 440.71 (3) of the statutes, as affected by this act, on April 1, 1988. This SECTION does not apply after April 30, 1990.