

2003 DRAFTING REQUEST

Senate Amendment (SA-SSA1-SB279)

Received: **01/22/2004**

Received By: **agary**

Wanted: **Soon**

Identical to LRB:

For: **Dale Schultz (608) 266-0703**

By/Representing: **Jonathan Klein (aide)**

This file may be shown to any legislator: **NO**

Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Fin. Inst. - int. rates/loans**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Schultz@legis.state.wi.us**

Carbon copy (CC:) to: **Jonathan.Klein@legis.state.wi.us**

Pre Topic:

No specific pre topic given

Topic:

Changes for loan solicitor as category of loan originator

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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	01/26/2004	01/27/2004	01/27/2004	_____	01/27/2004	01/27/2004	

FE Sent For:

<END>

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FE Sent For:

<END>

1/21/04

Jonathan - VM 6-0703

- memo: drafting instructions.

- will send over

u

~~Adam~~ . ~~Raschka~~

~~Joel~~

~~Joel Kleefisch~~
~~Adam Raschka~~

Aaron,

This memo reflects
the changes Rep.
Jesperson and Sen.
Schultz would like to
make in the amendment
(LRBa 1987) to the
Substitute amendment
to SB279. Call
w/ any questions.

266-0703

Jonathan
Klein



Thomas S. Hanson
Executive Director
(608) 256-6413
(608) 256-6222 FAX

The following summarizes an agreement reached by Senator Schultz, Representative Jeskewitz and the Department of Financial Institutions at a meeting held January 21 at the office of DFI:

AB 610/SB 279 shall be amended on the floor of the Assembly and the Senate by Senator Schultz and Representative Jeskewitz during the 2004 legislative session to create a subcategory of loan originator called "loan solicitor" and to provide that at least one loan solicitor shall sit on the Loan Originator Review Council created under the bills

The Department of Financial (DFI) Institutions through administrative rule shall define the definition of loan solicitor. This designation is intended to reflect the limited scope of the activities performed by the loan solicitor licensee. ~~Among the limitations that the department may require are: the licensee operate under exclusive written contract with an entity registered as a mortgage broker or mortgage banker; that the loan solicitor only offer the loan products of an affiliate of the mortgage banker or mortgage broker (not chop loans); not receive any cash or funds from the borrower, not perform any underwriting functions, and not close any loans.~~

Lesser testing and continuing education requirements appropriate to the limited scope of duties and activity performed by the subcategory of loan solicitor shall be determined by DFI through administrative rule. The Loan Originator Review Council, created in SB 279/AB 610, shall contain at least one council member that is a loan solicitor. Fees appropriate to administer the lesser subcategory of loan solicitor shall be determined by DFI, which fees shall not exceed those imposed on the primary category of loan originator.

The subcategory shall ~~EITHER include both employees and independent contractors but~~ not intended to subject entities exempt from Senate Substitute Amendment 1 SB 279 (Section 8) to the additional testing or continuing education requirements contemplated by this amendment ~~OR shall be drafted to only include independent contractors with such additional requirements as determined by DFI through the definition.~~

Gary, Aaron

From: Gary, Aaron
Sent: Thursday, January 22, 2004 12:57 PM
To: Klein, Jonathan
Subject: amendment to SB-279

Jonathan,

I basically have this amendment put together, with a little fine-tuning to be done. There are a couple of issues that I thought I should address with you:

1. With regard to the first substantive paragraph of the memo you provided, it directs that a loan solicitor be a subcategory of loan originator and that at least one loan solicitor sit on the loan originator council. The make-up of the council appears on p. 2, lines 11-14 of SSA1 to SB-279. There could be two interpretations of the instructions: (1) To require that one of the 3 loan originators under (a) (line 11) be a loan solicitor. This would leave the council with the same number of members, 7; or (2) add an additional member to the council, making 8 total members, with 3 being loan originators and 1 being a loan solicitor. I have assumed what is intended is option 1, to keep total number at 7. Please advise if this is incorrect.

2. The third substantive paragraph of the memo directs that DFI establish lesser testing and cle requirements for loan solicitors. It does not otherwise direct changes in current registration procedure for loan solicitors. The instructions say that "Lesser testing and continuing education requirements appropriate to the limited scope of duties and activity performed by the subcategory of loan solicitor shall be determined by DFI through administrative rule. Fees appropriate to administer the lesser subcategory of loan solicitor shall be determined by DFI, which fees shall not exceed those imposed on the primary category of loan originator." I have drafted the amendment to carry out this directive as I interpret it, but it is rather awkward. As I interpret the instructions, DFI is to set the fees for exams and CLE for loan solicitors. However, there is nothing in the bill now that provides for DFI to set the fees for exams and CLEs for loan originators. The exams are administered by private entities and presumably the CLEs will be too; DFI would not be administering either and therefore DFI does not (under the bill now) set the fees for these. So it seems a little unusual to require DFI to set the exam and CLE fees for private entities for same exams and CLEs (loan solicitors) but not for others (loan originators).

I have interpreted the fee reference to be to the exams and CLEs because that is all this amendment deals with; it makes no real changes to the current registration process for this new category of "loan solicitors." To the extent what is actually sought is a change in the registration fee established under s. 224.72 (8) for loan solicitors, there is no decrease under the bill in DFI's responsibilities for processing registration for "loan solicitors."

Do you want to see the draft as I have interpreted the instructions (which is now done), to omit the "fee" provisions referenced in the memo, or to treat only the registration fee?

Thanks for your guidance. Aaron

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

He w/ Jonathan
1/22/04

1. make loan solicitor one of the three under par. (b)
2. what was intended was registration fee - leave fee issue out of draft

TODAY

ejs

↓-note

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
SENATE AMENDMENT,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO 2003 SENATE BILL 279

bill list ✓

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 2, line 12: delete lines 12 to 13 and substitute:

3 " (b) One person who is an agent of a mortgage broker registered under s. 224.72
4 (1m). ✓

5 (c) One person who is an agent of a mortgage banker registered under s. 224.72
6 (1m). ✓

7 (d) One person who is a loan solicitor, as defined in s. 224.71 (1u), registered
8 under s. 224.71 (1m). ✓

9 2. Page 2, line 14: delete "(c)" and substitute "(e)". ✓

10 3. Page 2, line 22: after that line insert:

11 "SECTION 5m. 224.71 (1u) of the statutes is created to read:

and ✓

72

1 224.71 (1u) "Loan solicitor" means a type of loan originator as defined by rule
2 by the division under s. 224.72 (7p) (a)."

3 4. Page 4, line 4: after "hours" insert ", or, if the applicant is a loan solicitor,
4 at least the minimum number of hours established by rule by the division,".

5 5. Page 5, line 6: delete lines 6 to 10 and substitute:

6 "224.72 (7p) RULES RELATING TO LOAN SOLICITORS, COMPETENCY EXAMINATIONS,
7 AND CONTINUING EDUCATION. The division shall promulgate rules that do all of the
8 following:

9 (a) Define loan solicitor, which definition shall reflect the limited scope of duties
10 and activities performed by loan solicitors in comparison with loan originators who
11 are not loan solicitors.

12 (b) Establish standards for the approval by the loan originator council of
13 examinations in the law of mortgage banking and mortgage brokering under subs.
14 (3) (b) and (7) (d) 2. The rules shall require that a separate examination be available
15 for loan solicitors, the standards for which reflect the limited scope of duties and
16 activities performed by loan solicitors in comparison with loan originators who are
17 not loan solicitors and reflect the reduction in hours of education required of loan
18 solicitors under par. (c) and sub. (7) (d) 1.

19 (c) Establish standards for the approval by the loan originator council of the
20 curricula of education under sub. (7) (d) 1. and the minimum number of hours, which
21 shall be less than 16, of education required of loan solicitors under sub. (7) (d) 1. The
22 rules shall establish separate standards for curricula for loan solicitors, the
23 standards for which ^{that} reflect the limited scope of duties and activities performed by
24 loan solicitors in comparison with loan originators who are not loan solicitors and

1 reflect the reduction in hours of education required of loan solicitors under this
2 paragraph and sub. (7) (d) 1." (1)

3 6. Page 7, line 11: after "(b)" insert "to (d)". ✓
4

(END)

D. Note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa2007/P1dn

ARG:.....

ajs

ATTN: Jonathan Klein

As we discussed, the attached amendment does not change the current registration process for "loan solicitors" with DFI and does not treat s. 224.72 (8) relating to registration fees. As I interpret existing law (s. 224.72 (8)), DFI may, but is not required to, establish by rule a lower registration fee for loan solicitors than for loan originators who are not loan solicitors.

If the attached amendment meets with your approval, please let me know and I will convert it to an introducible "/1".

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBa2007/P1dn
ARG:cjs:rs

January 22, 2004

ATTN: Jonathan Klein

As we discussed, the attached amendment does not change the current registration process for "loan solicitors" with DFI and does not treat s. 224.72 (8) relating to registration fees. As I interpret existing law (s. 224.72 (8)), DFI may, but is not required to, establish by rule a lower registration fee for loan solicitors than for loan originators who are not loan solicitors.

If the attached amendment meets with your approval, please let me know and I will convert it to an introducible "/1".

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

1/26/04

He w/ Jonathan

LRB a 2007 :

- is day w/ provision from a 2010



Needed
1/27

LRBa2007/1

ARG:cjs:rs

MMR

Spans

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**SENATE AMENDMENT ,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO 2003 SENATE BILL 279**

- 1 At the locations indicated, amend the substitute amendment as follows:
- 2 **1.** Page 2, line 12: delete lines 12 and 13 and substitute:
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- 4 (1m).
- 5 (c) One person who is an agent of a mortgage banker registered under s. 224.72
- 6 (1m).
- 7 (d) One person who is a loan solicitor, as defined in s. 224.71 (1u), registered
- 8 under s. 224.72 (1m).”.
- 9 **2.** Page 2, line 14: delete “(c)” and substitute “(e)”.
- 10 **3.** Page 2, line 22: after that line insert:
- 11 “SECTION 5m. 224.71 (1u) of the statutes is created to read:

1 224.71 (1u) "Loan solicitor" means a type of loan originator as defined by rule
2 by the division under s. 224.72 (7p) (a).".

3 **4.** Page 4, line 4: after "hours" insert ", or, if the applicant is a loan solicitor,
4 at least the minimum number of hours established by rule by the division,".

5 **5.** Page 5, line 6: delete lines 6 to 10 and substitute:

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22 rules shall establish separate standards for curricula for loan solicitors that reflect
23 the limited scope of duties and activities performed by loan solicitors in comparison

1 with loan originators who are not loan solicitors and reflect the reduction in hours
2 of education required of loan solicitors under this paragraph and sub. (7) (d) 1.”

3 **6.** Page 7, line 11: after “(1) (b)” insert “to (d)”.

4 (END)

Insert
3-2 →

1 with loan originators who are not loan solicitors and reflect the reduction in hours
2 of education required of loan solicitors under this paragraph and sub. (7) (d) 1.”

3 **6.** Page 5, line ¹⁰ ~~11~~: after that line insert:
4 “SECTION 14m. 224.73 (4) of the statutes is created to read:
5 224.73 (4) SIGNATURE BY LOAN ORIGINATOR. Every loan application shall be
6 signed by a registered loan originator.”

7 ~~7.~~ Page ~~7~~, line ~~14~~ after “(1) (b)” insert “to (d)”.

8 (END)

insert 3-2

