



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

Appendix A ... segment I

LRB BILL HISTORY RESEARCH APPENDIX

 The drafting file for

2011 LRB-2625/3 (For: Senator Hansen)


has been transferred to the drafting file for

2013 LRB-1311 (For: Senator Hansen)



RESEARCH APPENDIX -
PLEASE KEEP WITH THE DRAFTING FILE

Date Transfer Requested: 01/25/2013 (Per: ARG)

 The attached draft was incorporated into the new draft listed above. For research purposes the attached materials were added, as a appendix, to the new drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

2011 DRAFTING REQUEST

Bill

Received: 08/10/2011

Received By: agary

Wanted: As time permits

Companion to LRB:

For: Dave Hansen (608) 266-5670

By/Representing: Jay Wadd

May Contact:

Drafter: agary

Subject: Fin. Inst. - banking inst.
Fin. Inst. - int. rates/loans

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Sen.Hansen@legis.wisconsin.gov

Carbon copy (CC:) to: aaron.gary@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Annual audits and financial statements for mortgage bankers and mortgage brokers

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>
/?							State
/P1	agary 08/23/2011	edt_sbasford 09/20/2011	rschluet 09/20/2011		lparisi 09/20/2011		State
/P2	agary 11/15/2011	jdyer 11/16/2011	rschluet 11/16/2011		lparisi 11/16/2011		State
/1	agary 12/19/2011	jdyer 12/19/2011	rschluet 12/19/2011		mbarman 12/19/2011	mbarman 12/19/2011	State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/2	agary 01/19/2012	jdyer 01/19/2012	rschluet 01/19/2012	_____	sbasford 01/19/2012	sbasford 01/19/2012	State
	agary 02/08/2012	jdyer 02/09/2012		_____			
/3			jmurphy 02/09/2012	_____	ggodwin 02/09/2012		

FE Sent For:

<END>

Jacket
Returned
- see
attached

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/?		3 2/9 jld		pm 2/9			State
/P1	agary 08/23/2011	edt_sbasford 09/20/2011	rschluet 09/20/2011	gjm	lparisi 09/20/2011		State
/P2	agary 11/15/2011	jdye 11/16/2011	rschluet 11/16/2011		lparisi 11/16/2011		State
/1	agary 12/19/2011	jdye 12/19/2011	rschluet 12/19/2011		mbarman 12/19/2011	mbarman 12/19/2011	State

(PAs: see note on next page)

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/2	agary 01/19/2012	jdye 01/19/2012	rschluet 01/19/2012	_____	sbasford 01/19/2012	sbasford 01/19/2012	

FE Sent For:

<END>

PA's : Please
do not jacket
13.
Thanks, Anna

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/?		2/19 jld		_____			State
/P1	agary 08/23/2011	edt_sbasford 09/20/2011	rschluet 09/20/2011	_____	lparisi 09/20/2011		State
/P2	agary 11/15/2011	jdyer 11/16/2011	rschluet 11/16/2011	_____	lparisi 11/16/2011		State
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/?		12/19 jld					State
/P1	agary 08/23/2011	edt_sbasford 09/20/2011	rschluet 09/20/2011		lparisi 09/20/2011		State
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FE Sent For:

<END>

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Please
jacket
/1.
Thx.

12/14

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/?	agary	1/P1 SBB 8/25		_____	_____		State

FE Sent For:

PI 9/20/11

<END>

Gary, Aaron

From: Wadd, Jay
Sent: Thursday, August 04, 2011 2:14 PM
To: Gary, Aaron
Subject: Drafting Request

Hi, Aaron,

2009 SB-62 made some changes to the law as it relates to mortgage brokers, originators, etc. One of the provisions was to require mortgage brokers to file annual audited financial statements. Would you please draft a bill that changes the law to require them to file annual reviewed financial statements?

Thanks,

Jay



State of Wisconsin
2011 - 2012 LEGISLATURE

In
8/23



LRB-2625/P1

ARG:.....
SBB + JLD

Due BY 9/21 per requester

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-Note

4

Gen Cat

1 AN ACT ...; relating to: reporting by 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, including provisions requiring that certain state licensing and registration functions be conducted through the Nationwide Mortgage Licensing System and Registry (NMLSR) developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators.

Current law requires each mortgage banker, mortgage broker, and mortgage loan originator to annually submit to the NMLSR, by the date and in the form required by the NMLSR, an annual report of condition, which must contain any information required by the NMLSR. In addition, no later than six months after the

(GAAP) end of a fiscal year, each mortgage banker or mortgage broker must annually submit a copy of an audit of the mortgage banker's or mortgage broker's operations during the prior fiscal year. The audit must be conducted by an independent certified public accountant (CPA) in accordance with generally accepted auditing standards. The financial statements in the audit report must be prepared in accordance with generally accepted accounting principles. The division may also request a mortgage banker or mortgage broker to obtain an audit of the mortgage banker's or mortgage broker's operations if the division has reason to believe that the mortgage banker or mortgage broker may not have sufficient financial resources to meet its obligations.

GAAP This bill eliminates the requirement that a mortgage banker or mortgage broker annually submit a copy of an audit of the mortgage banker's or mortgage broker's operations during the prior fiscal year. The bill instead requires that a mortgage banker or mortgage broker annually submit a copy of the mortgage banker's or mortgage broker's financial statements for the prior fiscal year. These financial statements must be prepared in accordance with generally accepted accounting principles and reviewed by an independent CPA. The mortgage banker or mortgage broker must also attest in writing, under oath, that the financial statements are complete and accurate.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 SECTION 1. 224.74 (1) (b) of the statutes is amended to read:
 2 224.74 (1) (b) ~~Audit~~ Financial statement requirement. Each year, no later than
 3 6 months following the end of its most recently completed fiscal year, each mortgage
 4 banker or mortgage broker shall submit a copy of an audit of the mortgage banker's
 5 or mortgage broker's operations during that financial statements for its most
 6 recently completed fiscal year. ~~An audit under this paragraph shall be conducted by~~
 7 ~~an independent certified public accountant in accordance with generally accepted~~
 8 ~~auditing standards. The~~ These financial statements in the audit report shall be
 9 prepared in accordance with generally accepted accounting principles and reviewed
 10 by an independent certified public accountant licensed or certified under ch. 442.

1 The mortgage banker or mortgage broker shall also attest in writing, under oath,
2 that the financial statements are complete and accurate. ✓

3 History: 1987 a. 359; 1987 a. 403 ss. 182, 256; Stats. 1987 s. 440.74; 1991 a. 39; 1995 a. 27 s. 6595; Stats. 1995 s. 224.74; 1997 a. 145; 2009 a. 2.

3 **SECTION 2. Initial applicability.**

4 (1) This act first applies with respect to fiscal years that begin on the effective
5 date of this subsection. ✓

6 **SECTION 3. Effective date.**

7 (1) This act takes effect on the first day of the 3rd month beginning after
8 publication. ✓

9 (END)

D - Note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2625/P1dn

ARG:.....

SBB
+
JLD

Date

ATTN: Jay Wadd ✓

Please review the attached draft carefully to ensure that it is consistent with your intent.

I used the definition of "reviewed financial statement" in s. 126.01 (20) for guidance in preparing this draft. ✓ ✓

I note that the audit requirement in s. 224.74 (1) (b) ✓ was not created or significantly altered by 2009 Wisconsin Act 2 (SB-62). The audit requirement in s. 224.74 (1) (b) pre-dates Act 2 and the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008. ✓

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "1" draft. ✓

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**

LRB-2625/P1dn
ARG:sbb&jld:rs

September 20, 2011

ATTN: Jay Wadd

Please review the attached draft carefully to ensure that it is consistent with your intent.

I used the definition of "reviewed financial statement" in s. 126.01 (20) for guidance in preparing this draft.

I note that the audit requirement in s. 224.74 (1) (b) was not created or significantly altered by 2009 Wisconsin Act 2 (SB-62). The audit requirement in s. 224.74 (1) (b) pre-dates Act 2 and the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

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

Gary, Aaron

From: Wadd, Jay
Sent: Friday, November 11, 2011 3:33 PM
To: Gary, Aaron
Subject: RE: Changes to LRB-2625/P1

Yes on both counts. Thanks, Aaron.

From: Gary, Aaron
Sent: Friday, November 11, 2011 3:10 PM
To: Wadd, Jay
Subject: RE: Changes to LRB-2625/P1

Hi Jay,
So the bill will apply only to mortgage brokers, right?
Also, should I continue to wait for the other change before redrafting?

Thanks. Aaron

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

From: Wadd, Jay
Sent: Thursday, November 10, 2011 4:58 PM
To: Gary, Aaron
Subject: Changes to LRB-2625/P1

Aaron,

I have a couple of changes to make to LRB-2625/P1, one of which I'm sending now. I will be in touch tomorrow with the other change.

Please restore the audit requirement for Mortgage Bankers.

Thanks,

Jay

Gary, Aaron

From: Wadd, Jay
Sent: Friday, November 11, 2011 4:29 PM
To: Gary, Aaron
Subject: LRB-2625

Attachments: Preliminary Bill Suggestion.pdf

Aaron,

So we want to return the law, with respect to mortgage brokers only, to required compiled/prepared statements, etc., that are certified by the company officer.

I've attached some language for you to review.

Thanks,

Jay



Preliminary Bill
Suggestion.pd...



State of Wisconsin
2011 - 2012 LEGISLATURE

500m



LRB-2625/PZ
ARG:sbb&jld:rs

in
11/15

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

4

Regen

1 AN ACT *to amend* 224.74 (1) (b) of the statutes; **relating to:** reporting by
2 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 loan application or offers or negotiates terms of a 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, including provisions requiring that certain state licensing and registration functions be conducted through the Nationwide Mortgage Licensing System and Registry (NMLSR) developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators.

Current law requires each mortgage banker, mortgage broker, and mortgage loan originator to annually submit to the NMLSR, by the date and in the form

of the mortgage broker's operations ✓

required by the NMLSR, an annual report of condition, which must contain any information required by the NMLSR. In addition, no later than six months after the end of a fiscal year, each mortgage banker or mortgage broker must annually submit a copy of an audit of the mortgage banker's or mortgage broker's operations during the prior fiscal year. The audit must be conducted by an independent certified public accountant (CPA) in accordance with generally accepted auditing standards. The financial statements in the audit report must be prepared in accordance with generally accepted accounting principles (GAAP). The division may also request a mortgage banker or mortgage broker to obtain an audit of the mortgage banker's or mortgage broker's operations if the division has reason to believe that the mortgage banker or mortgage broker may not have sufficient financial resources to meet its obligations.

This bill eliminates the requirement that a mortgage banker or mortgage broker annually submit a copy of an audit of the mortgage banker's or mortgage broker's operations during the prior fiscal year. The bill instead requires that a mortgage banker or mortgage broker annually submit a copy of the mortgage banker's or mortgage broker's financial statements for the prior fiscal year. Financial statements must be prepared in accordance with GAAP and reviewed by an independent CPA. The mortgage banker or mortgage broker must also attest in writing under oath that the financial statements are complete and accurate.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

An officer of the

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

insert 2-1

SECTION 1. 224.74 (1) (b) of the statutes is amended to read:

224.74 (1) (b) *Audit Financial statement requirement.* Each year, no later than 6 months following the end of its most recently completed fiscal year, each mortgage banker or mortgage broker shall submit a copy of an audit of the mortgage banker's or mortgage broker's operations during that financial statements for its most recently completed fiscal year. An audit under this paragraph shall be conducted by an independent certified public accountant in accordance with generally accepted auditing standards. The These financial statements in the audit report shall be prepared in accordance with generally accepted accounting principles and reviewed by an independent certified public accountant licensed or certified under ch. 442.

Handwritten notes: * This and certify

Handwritten note: prepared

e
1 The mortgage banker or mortgage broker shall also attest in writing, under oath,
2 that the financial statements are complete and accurate.

3 **SECTION 2. Initial applicability.**

4 (1) This act first applies with respect to *9 submissions made*
~~fiscal years that begin~~
5 date of this subsection.

6 **SECTION 3. Effective date.**

7 (1) This act takes effect on the first day of the 3rd month beginning after
8 publication. ✓

9 (END)

2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2625/P2ins
ARG:.....

1

2

INSERT 2-1:

3

SECTION 1. 224.74 (1) (b) (title) of the statutes is amended to read:

4

224.74 (1) (b) (title) *Audit requirement and financial statement requirements.*

5

History: 1987 a. 359; 1987 a. 403 ss. 182, 256; Stats. 1987 s. 440.74; 1991 a. 39; 1995 a. 27 s. 6595; Stats. 1995 s. 224.74; 1997 a. 145; 2009 a. 2.

SECTION 2. 224.74 (1) (b) of the statutes is renumbered 224.74 (1) (b) 1. and

6

amended to read:

7

224.74 (1) (b) 1. Each year, no later than 6 months following the end of its most

8

recently completed fiscal year, each mortgage banker ~~or mortgage broker~~ shall

9

submit a copy of an audit of the mortgage banker's ~~or mortgage broker's~~ operations

10

during that most recently completed fiscal year. An audit under this paragraph

11

subdivision shall be conducted by an independent certified public accountant in

12

accordance with generally accepted auditing standards. The financial statements

13

in the audit report shall be prepared in accordance with generally accepted

14

accounting principles.

15

History: 1987 a. 359; 1987 a. 403 ss. 182, 256; Stats. 1987 s. 440.74; 1991 a. 39; 1995 a. 27 s. 6595; Stats. 1995 s. 224.74; 1997 a. 145; 2009 a. 2.

SECTION 3. 224.74 (1) (b) 2. of the statutes is created to read:

16

224.74 (1) (b) 2. Each year, no later than 6 months following the end of its most

17

recently completed fiscal year, each mortgage broker shall submit a prepared

18

financial statement of the mortgage broker's operations during that most recently

19

completed fiscal year. A financial statement under this subdivision shall be prepared

20

by an independent certified public accountant in accordance with generally accepted

21

accounting principles. An officer of the mortgage broker shall attest in writing and

22

certify that the financial statement is complete and accurate.

History: 1987 a. 359; 1987 a. 403 ss. 182, 256; Stats. 1987 s. 440.74; 1991 a. 39; 1995 a. 27 s. 6595; Stats. 1995 s. 224.74; 1997 a. 145; 2009 a. 2.

(end ins 2-1)

Gary, Aaron

From: Wadd, Jay
Sent: Monday, December 19, 2011 11:15 AM
To: Gary, Aaron
Subject: LRB-2625

Hi, Aaron,

Would you please jacket this draft for introduction?

Thanks,

Jay