

HOUSE BILL NO. 1032

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES GATSCHENBERGER (Sponsor) AND TILLEY (Co-sponsor).

2371L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 443, RSMo, by adding thereto eight new sections relating to licensure of loan officers, with a penalty provision.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 443, RSMo, is amended by adding thereto eight new sections, to be known as sections 443.600, 443.605, 443.610, 443.615, 443.620, 443.625, 443.630, and 443.635, to read as follows:

443.600. For the purposes of sections 443.600 to 443.635, the following terms shall mean:

- (1) "Board", the board of loan officers established in section 443.605;
- (2) "Buyer", an individual who is solicited to purchase or who purchases the services of a mortgage broker for purposes other than obtaining a business loan;
- (3) "Loan officer", an employee who originates mortgage loans, as defined in section 443.803, in consideration of direct or indirect gain, profit, fees, or charges. Loan officer also includes an employee who solicits financial and mortgage information from the public for sale to another mortgage broker;
- (4) "Originate", to do any of the following:
 - (a) Negotiate or arrange, or offer to negotiate or arrange, a mortgage loan between a person that makes or funds mortgage loans and a buyer;
 - (b) Issue a commitment for a mortgage loan to a buyer;
 - (c) Place, assist in placement, or find a mortgage loan for a buyer;
- (5) "Person", an individual desiring practice as a loan officer in this state.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

443.605. 1. There is hereby established in the division of professional registration in the department of insurance, financial institutions and professional registration the "Board of Loan Officers" which shall guide, advise, and make recommendations to the division regarding the licensure of loan officers under sections 443.600 to 443.635.

2. The board shall consist of seven voting members, including one public member, and one nonvoting member, appointed by the governor with the advice and consent of the senate. Each member of the board shall be a citizen of the United States and a resident of this state and, except for the members first appointed, shall be licensed as a loan officer by this state. The nonvoting member shall be a member of the banking community in the state and shall serve a four-year term. Beginning with the appointments made after August 28, 2009, three voting members shall be appointed for four years, two voting members shall be appointed for three years, and two voting members shall be appointed for two years. Thereafter, all voting members shall be appointed to serve four-year terms. No person shall be eligible for reappointment who has served as a member of the board for a total of eight years. The membership of the board shall reflect the differences in work experience and the professional affiliations of loan officers with consideration being given to race, gender and ethnic origins.

3. A vacancy in the office of a member shall be filled by appointment by the governor for the remainder of the unexpired term.

4. The board shall hold an annual meeting at which it shall elect from its membership a chairperson, vice chairperson and secretary. The board may hold such additional meetings as may be required in the performance of its duties, provided that notice of every meeting shall be given to each member at least three days prior to the date of the meeting. A quorum of the board shall consist of a majority of its voting members.

5. The governor may remove a board member for misconduct, incompetence, or neglect of official duties after giving the board member written notice of the charges and allowing the board member an opportunity to be heard.

6. The public member shall be, at the time of appointment, a citizen of the United States; a resident of this state for a period of one year and a registered voter; but shall not have been a member of any profession licensed or regulated under sections 443.600 to 443.635 or an immediate family member of such a person; and shall not have had a material financial interest in either providing mortgage loans, as defined in section 443.803, or in an activity or organization directly related to any profession licensed or regulated under sections 443.600 to 443.635. The duties of the public member shall not include any determination of the technical requirements to be met for licensure, whether a candidate

36 for licensure meets such technical requirements, or of the technical competence or technical
37 judgment of a licensee or a candidate for licensure.

38 7. The professional members shall not be officers in a professional banking
39 organization, nor shall they be the owners or managers of any banking entity.

40 8. Notwithstanding any other provision of law to the contrary, any appointed
41 member of the board shall receive as compensation an amount established by the director
42 of the division of professional registration not to exceed seventy dollars per day for
43 commission business plus actual and necessary expenses. The director of the division of
44 professional registration shall establish by rule guidelines for payment. All staff for the
45 board shall be provided by the division.

443.610. 1. The board is authorized to promulgate rules and regulations regarding:

- 2 (1) The content of license applications and the procedures for filing an application
3 for an initial or renewal license in this state;
- 4 (2) Educational requirements for licensure;
- 5 (3) Developing and administering a licensing examination;
- 6 (4) The standards and methods to be used in assessing competency as a loan officer;
- 7 (5) All applicable fees, set at an amount which shall not substantially exceed the
8 cost and expense of administering sections 443.600 to 443.635; and
- 9 (6) Establishment of procedures for granting reciprocity with other states,
10 including states which do not have loan officer licensing laws or states whose licensing laws
11 are not substantially the same as those of this state.

12 2. All funds received by the board under the provisions of sections 443.600 to
13 443.635 shall be collected by the director who shall transmit the funds to the department
14 of revenue for deposit in the state treasury to the credit of the "Loan Officers Fund" which
15 is hereby created. Notwithstanding the provisions of section 33.080, RSMo, to the
16 contrary, money in this fund shall not be transferred and placed to the credit of general
17 revenue until the amount in the fund at the end of the biennium exceeds three times the
18 amount of the appropriation from the fund for the preceding fiscal year.

19 3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,
20 that is created under the authority delegated in this section shall become effective only if
21 it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if
22 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
23 and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,
24 to review, to delay the effective date, or to disapprove and annul a rule are subsequently

25 held unconstitutional, then the grant of rulemaking authority and any rule proposed or
26 adopted after August 28, 2009, shall be invalid and void.

443.615. A person desiring to receive a license as a loan officer in the state of
2 Missouri shall file a written application with the board on a form prescribed by the
3 division, pay the appropriate required fee, and pass the licensing examination with a
4 minimum score of seventy-five percentile. It shall be unlawful for a business to employ or
5 contract with any person in this state to provide any service as a loan officer unless such
6 person has obtained a license as provided by sections 443.600 to 443.635. Failure to comply
7 with the provisions of this section shall be cause to discipline the licensee.

443.620. 1. The board shall review the applications and shall issue a license to
2 applicants who have complied with the requirements of sections 443.600 to 443.635.

3 2. A license shall be renewed every two years upon approval of the board when the
4 following conditions have been met:

5 (1) The application is accompanied by the appropriate required renewal fee;

6 (2) Provide sufficient evidence of completion of forty hours of board accredited
7 continuing education, with twenty of those continuing education hours being in ethics;

8 (3) The licensee is in compliance with the requirements established under the
9 provisions of sections 443.600 to 443.635;

10 (4) The application is accompanied by a statement of any changes in the
11 information previously filed with the board.

12 3. A licensee shall not be employed by more than one mortgage broker at any one
13 time. Licenses shall be posted in a conspicuous place on the premises of the business.

443.625. 1. The board may refuse to issue, renew, or reinstate any license required
2 by sections 443.600 to 443.635 for one or any combination of causes stated in subsection 2
3 of this section. The board shall notify the applicant in writing of the reasons for the refusal
4 and shall advise the applicant of his or her right to file a complaint with the administrative
5 hearing commission as provided by chapter 621, RSMo.

6 2. The board may cause a complaint to be filed with the administrative hearing
7 commission as provided by chapter 621, RSMo, against any holder of any license issued
8 under sections 443.600 to 443.635 or any person who has failed to renew or has
9 surrendered his or her license for any one or any combination of the following causes:

10 (1) The person has been finally adjudicated and found guilty, or entered a plea of
11 guilty or nolo contendere, in a criminal prosecution pursuant to the laws of any state or of
12 the United States, for any offense reasonably related to the qualifications, functions, or
13 duties of the profession regulated under sections 443.600 to 443.635, for any offense an

14 essential element of which is fraud, dishonesty, or an act of violence, or for any offense
15 involving moral turpitude, whether or not sentence is imposed;

16 (2) Use of fraud, deception, misrepresentation, or bribery in securing any license
17 issued under sections 443.600 to 443.635;

18 (3) Obtaining or attempting to obtain any fee, charge, or other compensation by
19 fraud, deception, or misrepresentation;

20 (4) Incompetency, misconduct, gross negligence, fraud, misrepresentation, or
21 dishonesty in the performance of the functions or duties of the profession regulated by
22 sections 443.600 to 443.635;

23 (5) Violation of, or assisting or enabling any person to violate, any provision of
24 sections 443.600 to 443.635, or of any lawful rule or regulation adopted under sections
25 443.600 to 443.635;

26 (6) Impersonation of any person holding a license;

27 (7) Disciplinary action against the holder of a license or other right to practice the
28 profession regulated by sections 443.600 to 443.635 granted by another state, territory,
29 federal agency, or country upon grounds for which revocation or suspension is authorized
30 in this state;

31 (8) A person is finally adjudged insane or incompetent by a court of competent
32 jurisdiction;

33 (9) Issuance of a license based upon a material mistake of fact;

34 (10) Use of any advertisement or solicitation which is false, misleading, or deceptive
35 to the general public or persons to whom the advertisement or solicitation is primarily
36 directed.

37 3. Any person, organization, association, or corporation who reports or provides
38 information to the division under sections 443.600 to 443.635 and who does so in good faith
39 and without negligence shall not be subject to an action for civil damages as a result
40 thereof.

41 4. After the filing of a complaint under subsection 2 of this section, the proceedings
42 shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a
43 finding by the administrative hearing commission that one or more of the grounds for
44 disciplinary action provided in subsection 2 of this section are met, the board may, singly
45 or in combination, censure or place the person named in the complaint on probation or
46 suspension or revoke the license of the person on such terms and conditions as the division
47 deems appropriate.

2 **443.630. 1. Any applicant for a license to act as a loan officer shall authorize the**
3 **board to conduct a criminal background check.**

3 **2. The cost of such background check shall be paid by the applicant.**

2 **443.635. Any person who violates any of the provisions of sections 443.600 to**
2 **443.635 is guilty of a class A misdemeanor.**

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