

LEGAL SERVICES

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MEMORANDUM

March 30, 2009

SUBJECT: CSHB 145() relating to the regulation of residential real property mortgage lending (Work Order No. 26-LS0598\E)

TO: Representative Bob Lynn
Attn: Nancy Manly

FROM:  Theresa Bannister
Legislative Counsel

This memo accompanies a draft of the bill described above.

1. Review. Since it was necessary to interpret the material, to harmonize inconsistencies, and to make changes to place some items in our drafting style, please review the bill carefully to determine that it captures your intent.
2. Prohibited activities. With the exception of the three paragraphs that must be kept identical to the required language, many of the listed activities in sec. 06.62.330 need to be tied, in whatever way you would like to do it, to mortgage loans and mortgage lending.
3. Sec. 06.62.330(13) and (21). These paragraphs appear to contain some duplication. Can they be combined in some way?
4. Transition provisions. The transition provisions and the effective date provisions need to be reviewed carefully to make sure they work together and reflect the timeline that you want to meet. Also, please examine bill sec. 10(e). It was not exactly clear what this language was meant to do. The basic language was moved here from what is now sec. 06.62.090 because it appeared to be temporary.
5. Interstate commerce. Because this bill will apply to persons operating in the state from outside the state, it raises a constitutional interstate commerce issue. Whenever a bill establishes a requirement that may affect persons operating from another state, there is always a question whether the requirement places a burden on interstate commerce that would not satisfy the federal constitutional commerce clause. Unless the burden it imposes on interstate commerce is clearly excessive in relation to the anticipated local benefits, the requirement is likely to be valid under the commerce clause. I do not have enough information to evaluate the burden that this bill will impose.

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6. Fund composition. In sec. 06.62.390, a reference to "appropriations" has been added to avoid a dedicated fund issue.

7. Department examinations. Please note that sec. 06.62.297(b) has been shortened to delete material that appeared to be unnecessary in light of the first sentence.

If I may be of further assistance, please advise.

TLB:med

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Enclosure