

SB

102

SFIN

FILE

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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MEMORANDUM

April 27, 2007

SUBJECT: CSSB 102(L&C) relating to mortgage lending
(Work Order No. 25-LS0691NE)

TO: Senator Johnny Ellis
Chair of the Senate Labor and Commerce Committee
Attn: Dana Owen

FROM: 
Theresa Bannister
Legislative Counsel

This memo accompanies a draft of the bill described above.

1. Preemption. In sec. 06.60.370(c), the misdemeanor penalty applies to a person who is exempt under sec. 06.60.015. This raises a preemption issue for federal lending entities otherwise exempt under sec. 06.60.015.

2. Exemptions. Please be aware that limiting the exemptions to persons who operate as mortgage lenders and mortgage brokers may raise a federal preemption issue to the extent the regulation of originators impinges on the activities of national banks and other federally organized financial institutions (e.g., forced removal of an originator).

If I may be of further assistance, please advise.

TLB:lmb
07-111.lmb

Enclosure

COMMITTEE COPY

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: CSSB 102(L&C)
(S) Publish Date: 4/27/07

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
Title Mortgage Lending RDU Banking & Securities (536)
Component Banking & Securities
Sponsor Huggins By Request
Requester Senate Labor & Commerce Component No. 2808

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services	241.5	241.5	333.5	333.5	333.5	333.5
Travel	50.0	50.0	50.0	50.0	50.0	50.0
Contractual	65.0	65.0	55.0	55.0	55.0	55.0
Supplies	6.0	6.0	8.0	8.0	8.0	8.0
Equipment	15.0	0.0	5.0	0.0	0.0	0.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	377.5	362.5	451.5	446.5	446.5	446.5

CAPITAL EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013

CHANGE IN REVENUES (1156)	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
	455.0	455.0	510.0	520.0	539.0	549.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1156 Receipt Supported Services	455.0	455.0	510.0	520.0	539.0	549.0
TOTAL	455.0	455.0	510.0	520.0	539.0	549.0

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time	3	3	4	4	4	4
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation would require the licensing and regulation of people originating, lending or brokering mortgage loans. The division estimates there are about 22,000 mortgage documents filed each year in Alaska. The division estimates needing three additional staff (2 Financial Institution Examiners and 1 Business Registration Officer) in the first two years to implement the provisions of this legislation. One new Financial Institution Examiner would be added in the third year to implement the provision requiring all licensees to be examined every three years. Travel funds cover the cost of examining both in-state and out-of-state licensees. Contractual expenses include funds for the Department of Law to draft legal documents, represent the division at administrative hearings resulting from licensing revocations/disciplinary actions, and enforce orders resulting from investigations; and for staff training.

Prepared by: Mark Davis, Director Phone 907.269.8144
Division Banking and Securities Date/Time 4/16/07 3:52 PM
Approved by: Emil Notti, Commissioner Date 4/16/2007
Agency Commerce, Community, and Economic Development

STATE OF ALASKA
2007 LEGISLATIVE SESSION

BILL NO. CSSB 102(L&C)

ANALYSIS CONTINUATION

Revenue: The division estimates this legislation would generate \$455.0 in each of the first two years year due to the initial licensing of an estimated 200 mortgage licensees and 500 originator licensees (\$175.0 resulting from \$250 per originator and mortgage licenses, and the collection of \$220.0 in document filing fees (22,000 documents at \$10 per document assessment fee)), plus 100 examinations at an average cost of \$6.00 for a total of \$60.0.

In the third year, the division anticipates generating \$510.0 from licensing 250 mortgage licensees and 550 originator licensees for a total revenue amount of \$200.0, plus \$220.0 in document assessment fees, and \$90.0 from 150 examinations at the average of \$6.00 per examination.

In year 4 the division anticipates generating \$520.0 (\$90.0 results from the examination of 150 establishments at a cost of \$6.00 per examination; \$230.0 document assessment fees (23,000 documents at \$10 per document assessment fee)); and \$200.0 mortgage and originator licensing fees.

In year 5, the division anticipates generating \$539.0 (\$90.0 from examination fees, \$230.0 from document assessment fees, and \$219.0 from 275 mortgage licenses and 600 originator licenses.)

In year 6, the division anticipates generating \$549.0 (\$90.0 from examinations fees, \$240.0 in document assessment fees (24,000 documents at \$10 per document assessment fee)), and \$219.0 mortgage and originator licensing fees.

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSSB 102(L&C)
(S) Publish Date: 4/27/07

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
Title An Act relating to mortgage lending RDU Civil
Component Commercial & Fair Business
Sponsor SENATOR(S) HUGGINS
Requester Senate Labor & Commerce Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2007) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The bill would establish new statute to further regulate mortgage lending. Under the bill people who act as mortgage brokers, lenders and originators will be required to obtain a license issued through the Department of Commerce, Community and Economic Development ("DCCED"). The bill also imposes certain conduct requirements on the licensees, includes a prohibited practices section, and authorizes DCCED to impose disciplinary sanctions on licensees for violations of the requirements of the new law. Enactment of the bill will not fiscally impact the Department of Law.

Prepared by: Robert Meiners, Admin. Services Manager Phone 465-5427
Division Administrative Services Division Date/Time 4/13/07 10:37 AM
Approved by: Robert Meiners for Talis Colborg, Attorney General Date 4/13/2007
Agency Department of Law

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSSB 102(L&C)
(S) Publish Date: 4/27/07

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title An act relating to mortgage lenders RDU Centralized Administrative Services
Component Office of Administrative Hearings
Sponsor Senator Huggins
Requester Senate Labor & Commerce Component No. 2771

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services	0.0	70.0	70.0	70.0	70.0	70.0
Travel	0.0	3.0	3.0	3.0	3.0	3.0
Contractual	0.0	8.0	8.0	8.0	8.0	8.0
Supplies	0.0	1.0	1.0	1.0	1.0	1.0
Equipment	0.0	2.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	84.0	82.0	82.0	82.0	82.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Interagency receipts)	0.0	84.0	82.0	82.0	82.0	82.0
TOTAL	0.0	84.0	82.0	82.0	82.0	82.0

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time	0	1	1	1	1	1
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill provides for licensing of persons who would be entitled to a hearing if licensure is denied or if disciplinary action is taken against them. Under AS 4.64.030(a)(5), the Office of Administrative Hearings (OAH) would conduct the hearings in these matters for the Department of Commerce, Community and Economic Development (DCCED). This bill also provides for OAH to hear originator surety fund claims. Based on DCCED's projection of probable caseload, OAH likely could not handle all of these cases without adding personnel unless OAH experiences a downturn in other parts of its caseload. OAH estimates needing a one-quarter to one-half time administrative law judge position in FY09, when the bill would take effect, and recovering the cost from DCCED through interagency receipts under OAH's cost allocation plan.

Prepared by: Terry L. Thurbon, Chief Administrative Law Judge
Division: Office of Administrative Hearings
Approved by: Kevin Brooks, Deputy Commissioner
Agency: Department of Administration

Phone 465-1886
Date/Time 4/16/07 10:14 AM
Date 4/16/2007

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 3/2/07

FURTHER: Finance

Date of 5-Day Notice: 4/12/07
 (in accordance with Uniform Rule 23)

DATE TURNED
 IN TO OFFICE: 4/27/07

Labor and Commerce Committee considered SENATE BILL NO. 102

SB 102 MORTGAGE LENDING

"An Act relating to mortgage lenders, mortgage brokers, mortgage originators, state agents who collect program administration fees, and other persons who engage in activities relating to mortgage lending; relating to mortgage loan activities; relating to an originator fund; relating to fees for mortgage loan transactions; and providing for an effective date."

and recommends:

- be replaced with SCS or CS SB 102 (L+C)
- adopt previous SCS or CS _____ (_____)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:	
<input type="checkbox"/>	Same Title
<input checked="" type="checkbox"/>	New Title
HOUSE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
ADMINISTRATION	4/16/07	✓			1
LAW	4/15/07			✓	2
COMMERCE	4/16/07	✓			3

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	Do PASS	Do NOT PASS	NO REC	AMEND
<i>B. Davis</i>	DAVIS				X
<i>John Stevens</i>	STEVENS			X	
CHAIR: <i>[Signature]</i>	Ellis	X			

↑ [Signature]