

Joint Committee on Ways and Means

Carrier – House: Rep. Holvey  
Carrier – Senate: Sen. Johnson

Revenue: No revenue impact

Fiscal: Fiscal statement issued

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Action: Do Pass the A-Engrossed Measure as Amended including Amendments to Resolve Conflicts and Be Printed B-Engrossed

Vote: 16 – 5 – 1

House

Yeas: Buckley, C. Edwards, D. Edwards, Galizio, Jenson, Kotek, Nathanson, Shields

Nays: Garrard, Gilman, G. Smith

Exc: Richardson

Senate

Yeas: Bates, Carter, Johnson, Monroe, Nelson, Verger, Walker, Winters

Nays:

Exc: Girod, Whitsett

Prepared By: Robin LaMonte, Legislative Fiscal Office

Meeting Date: June 16, 2009

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**WHAT THE MEASURE DOES:** Defines loan servicers and exempts them from licensing. Clarifies situations in which realtors are exempt from licensing. Gives DCBS authority to exempt other entities from licensing requirements by rule in compliance with decisions of the Department of Housing and Urban Development (HUD). Creates opportunity for provisional licensing. Provides that license will not be denied solely on the basis of applicant's credit score. Clarifies when DCBS may refer violators of mortgage lending laws to district attorney for criminal prosecution. Allows loan originators to recover certain costs even if a loan is not ultimately made (e.g., rate-lock fee). Clarifies that due process applies to any enforcement actions and that employers of licensed loan originators are responsible for reporting and record-keeping requirements. Applies current, private right of action for mortgage brokers and mortgage bankers to all other employers of licensed loan originators. Clarifies that the prohibition on false and deceptive statements applies only to those made negligently or intentionally. Authorizes DCBS to post non-confidential NMLSR information on the agency's website. Limits DCBS authority to enforce updated federal mortgage protections to loans made by mortgage bankers, mortgage brokers, consumer finance lenders, and manufactured structure dealers.

**ISSUES DISCUSSED:**

- Amendment to the bill

**EFFECT OF COMMITTEE AMENDMENT:** Creates the standard of "knowingly violating" the rules and laws related to the mortgage lending program. Exempts manufactured structure dealer employees from mortgage loan originator licensing if they perform purely administrative or clerical tasks and receive only customary compensation from the transaction.

**BACKGROUND:** The federal S.A.F.E. Act, requires states to implement licensing of loan originators, or turn over regulatory responsibilities to HUD. The Conference of State Bank Supervisors developed a model act for implementation, upon which HB 2189-A is based.