



ARIZONA STATE SENATE
Fifty-Fifth Legislature, Second Regular Session

AMENDED
FACT SHEET FOR S.B. 1204

mortgage brokers; bankers; qualifications

Purpose

Allows an employee of an affiliated entity or parent company to be designated as the responsible individual for a mortgage broker, commercial mortgage broker or commercial mortgage banker licensee and removes the state-residency requirement for the responsible individual for a commercial mortgage banker licensee. Requires the Director of the Department of Insurance and Financial Institutions (DIFI) to administer certificates of exemption to applicants and outlines exemption application procedures.

Background

A person who brokers only commercial mortgage loans must obtain either a mortgage broker license or a commercial mortgage broker license. A person who brokers residential mortgage loans must obtain a mortgage broker license. Current statute prohibits the Deputy Director of DIFI from granting a mortgage broker or commercial mortgage broker license to a person other than a natural person who is not registered to do business in Arizona.

A mortgage broker or commercial mortgage broker licensee who is a natural person and not a resident of Arizona must designate one employee, who is not an independent contractor, as the individual responsible for the licensee. A responsible individual must be a resident of Arizona, in active management of the licensee's activities and meet statutory mortgage broker or commercial mortgage broker licensee qualifications ([A.R.S. § 6-903](#)).

A commercial mortgage banker licensee must designate one officer, director, member, partner, employee or trustee, who is not an independent contractor, as the individual responsible for the licensee. A responsible individual for a commercial mortgage banker licensee must be a resident of Arizona, in active management of the licensee's activities and have at least three years' experience in commercial mortgage banking or equivalent lending experience in a related business ([A.R.S. § 6-976](#)).

An *affiliate* is an entity which directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with the entity specified ([A.R.S. § 6-901](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Includes an employee of an affiliated entity or the parent company of the licensee in the individuals who may be designated as the responsible individual for a mortgage broker or commercial mortgage broker licensee that is not a natural person in order to entitle the officers, directors, members, partners, trustees and employees of the licensee to engage in the mortgage business.

2. Includes an employee of an affiliated entity or the parent company of the licensee in the individuals who may be designated as the responsible individual for a commercial mortgage banker licensee in order to entitle the officers, directors, members, partners, trustees and employees of the licensee to engage in the mortgage business.
3. Removes the Arizona residency requirement for the responsible individual of a commercial mortgage banker licensee.
4. Allows a parent company to apply for and be granted a certificate of exemption on behalf of an entity that allows the responsible individual for a mortgage broker or commercial mortgage broker licensee to reside out of state, if the responsible individual:
 - a) is a natural person;
 - b) meets the statutory requirements for responsible individuals; and
 - c) receives notification by the parent company that the parent company has been granted a certificate of exemption by the Director of DIFI (Director).
5. Requires a parent company that applies on behalf of an entity to submit an attestation that the parent company:
 - a) maintains a physical presence in Arizona;
 - b) does not have any disciplinary actions by DIFI; and
 - c) has a class of securities registered with the U.S. Securities and Exchange Commission.
6. Requires a responsible individual applicant to pay all exemption certificate fees.
7. Allows the Director to revoke a certificate of exemption if the Director finds:
 - a) the interests of the consumer are not met; or
 - b) the requirements of a responsible individual relating to exemption certificates are not met.
8. Requires the Director, if the Director denies an application for or revokes a certificate of exemption, to issue an order outlining the findings of fact, conclusions of law and reasons for denial or revocation and grants the applicant a right to an administrative hearing.
9. Authorizes a certificate of exemption to be continuous throughout the license period.
10. Allows the Director to prescribe rules for the exemption of responsible individuals and requires the Director to prescribe an attestation form.
11. Defines *generally accepted accounting principles* as the U.S. Generally Accepted Accounting Principles issued by the Financial Accounting Standards Board or the International Financial Reporting Standards issued by the International Accounting Standards Board for the purposes of statutes governing mortgage broker and banker licensees.
12. Makes technical and conforming changes.
13. Becomes effective on the general effective date.

Amendments Adopted by Committee

1. Reinstates the state-residency requirement for a responsible individual for a mortgage broker and commercial mortgage broker licensee, unless a certificate of exemption is authorized by the Director.
2. Outlines requirements for parent company applicants for a certificate of exemption from the in-state responsible individual residency requirement for mortgage broker and commercial mortgage broker licensees.
3. Requires the Director to authorize, deny or revoke an out-of-state exemption certificate application and to prescribe forms and any rules necessary to administer out-of-state exemptions.
4. Makes conforming changes.

Amendments Adopted by Committee of the Whole

1. Removes the requirement that a parent company must employ at least 5,000 employees nationwide to apply for a certificate of exemption.
2. Makes conforming changes.

Amendments Adopted by the House of Representatives

1. Removes the authorization for a mortgage broker, commercial mortgage broker or commercial mortgage banker licensee that is a natural person and nonresident of Arizona to designate an employee of an affiliated entity or the parent company of the licensee as the responsible individual.
2. Allows specified employees to be designated as the responsible individual for:
 - a) a mortgage broker or commercial mortgage broker licensee that is not a natural person; and
 - b) a commercial mortgage banker licensee.
3. Defines *generally accepted accounting principles* for the purposes of statutes governing mortgage broker and banker licensees.
4. Makes conforming changes.

Senate Action

FIN 2/16/22 DPA 9-0-1
3rd Read 2/28/22 26-0-4

House Action

COM 3/22/22 DPA 9-0-0-1
3rd Read 4/7/22 52-0-8