

corrected

Fifty-fifth Legislature
Second Regular Session

COMMITTEE ON COMMERCE
HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1204
(Reference to Senate engrossed bill)

1 Page 1, between lines 1 and 2, insert:

2 "Section 1. Section 6-901, Arizona Revised Statutes, is amended to
3 read:

4 6-901. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Affiliate" means an entity which directly or indirectly, through
7 one or more intermediaries, controls, is controlled by or is under common
8 control with the entity specified.

9 2. "Commercial mortgage broker" means a person who for compensation
10 or in the expectation of compensation either directly or indirectly makes,
11 negotiates or offers to make or negotiate a commercial mortgage loan.

12 3. "Commercial mortgage loan" means a loan that is directly or
13 indirectly secured by a mortgage or deed of trust or any lien interest on
14 commercial property and that is created with the consent of the owner of
15 the commercial property.

16 4. "Commercial property" means real property that is not a
17 residential dwelling of one to four units.

18 5. "Compensation" means anything of value or any benefit, including
19 points, commissions, bonuses, referral fees, loan origination fees and
20 other similar fees but excluding periodic interest resulting from the
21 application of the note rate of interest to the outstanding principal
22 balance remaining unpaid from time to time.

23 6. "Continuing education unit" means a fifty minute period of time
24 in a continuing education course that relates to the mortgage industry or
25 to mortgage transactions, including courses taken to maintain recognized
26 industry designations.

1 7. "GENERALLY ACCEPTED ACCOUNTING PRINCIPLES" MEANS UNITED STATES
2 GENERALLY ACCEPTED ACCOUNTING PRINCIPLES ISSUED BY THE FINANCIAL ACCOUNTING
3 STANDARDS BOARD OR THE INTERNATIONAL FINANCIAL REPORTING STANDARDS ISSUED
4 BY THE INTERNATIONAL ACCOUNTING STANDARDS BOARD.

5 ~~7.~~ 8. "Investor" means a person who lends or invests money in
6 mortgage loans.

7 ~~8.~~ 9. "License" means a license issued under this article.

8 ~~9.~~ 10. "Licensee" means a person licensed under this article.

9 ~~10.~~ 11. "Loan originator" has the same meaning prescribed in section
10 6-991.

11 ~~11.~~ 12. "Mortgage broker" means a person who is not exempt under
12 section 6-902 and who for compensation or in the expectation of
13 compensation either directly or indirectly makes, negotiates or offers to
14 make or negotiate a mortgage loan.

15 ~~12.~~ 13. "Mortgage loan" means a loan secured by a mortgage or deed
16 of trust or any lien interest on real estate located in this state created
17 with the consent of the owner of the real estate.

18 ~~13.~~ 14. "Mortgage loan closing" means the day by which all documents
19 relating to the mortgage loan have been executed and recorded and all
20 monies have been accounted for under the terms of the escrow instructions.

21 ~~14.~~ 15. "Residential mortgage loan" means a mortgage loan that has
22 security in the form of a residential dwelling of one to four units."

23 Renumber to conform

24 Page 3, line 16, after "person" insert "OR AN EMPLOYEE OF AN AFFILIATED ENTITY OR
25 THE PARENT COMPANY OF THE LICENSEE"

26 Line 21, after "licensee" strike remainder of line

27 Line 22, strike "THE LICENSEE"

28 Page 6, between lines 30 and 31, insert:

29 "Sec. 4. Section 6-941, Arizona Revised Statutes, is amended to
30 read:

31 6-941. Definitions

32 In this article, unless the context otherwise requires:

1 1. "Affiliate" means an entity which directly or indirectly, through
2 one or more intermediaries, controls, is controlled by or is under common
3 control with the entity specified.

4 2. "Compensation" means anything of value or any benefit including
5 points, commissions, bonuses, referral fees, loan origination fees and
6 other similar fees but excluding periodic interest resulting from the
7 application of the note rate of interest to the outstanding principal
8 balance remaining unpaid from time to time.

9 3. "GENERALLY ACCEPTED ACCOUNTING PRINCIPLES" MEANS UNITED STATES
10 GENERALLY ACCEPTED ACCOUNTING PRINCIPLES ISSUED BY THE FINANCIAL ACCOUNTING
11 STANDARDS BOARD OR THE INTERNATIONAL FINANCIAL REPORTING STANDARDS ISSUED
12 BY THE INTERNATIONAL ACCOUNTING STANDARDS BOARD.

13 ~~3.~~ 4. "License" means a license issued under this article.

14 ~~4.~~ 5. "Licensee" means a person licensed under this article.

15 ~~5.~~ 6. "Mortgage banker" means a person who is not exempt under
16 section 6-942 and who for compensation or in the expectation of
17 compensation either directly or indirectly makes, negotiates or offers to
18 make or negotiate a mortgage banking loan or a mortgage loan.

19 ~~6.~~ 7. "Mortgage banking loan" means a loan which is funded
20 exclusively from the mortgage banker's own resources, which is directly or
21 indirectly secured by a mortgage or deed of trust or any lien interest on
22 real estate located in this state and which is created with the consent of
23 the owner of the real property. For the purposes of this paragraph, "own
24 resources" means any of the following:

25 (a) Cash, corporate capital, warehouse credit lines at commercial
26 banks, savings banks or savings and loan associations or other sources that
27 are liability items on the mortgage banker's financial statements for which
28 its assets are pledged.

29 (b) Correspondent contracts between the mortgage banker and a bank,
30 savings bank, trust company, savings and loan association, credit union,
31 profit sharing or pension trust, consumer lender or insurance company.

1 (c) The mortgage banker's affiliates' cash, corporate capital,
2 warehouse credit lines at commercial banks or other sources that are
3 liability items on the affiliates' financial statements for which the
4 affiliates' assets are pledged.

5 ~~7.~~ 8. "Mortgage banking loan closing" means the day by which all
6 documents relating to the mortgage banking loan or mortgage loan have been
7 executed and recorded and all monies have been accounted for.

8 ~~8.~~ 9. "Mortgage loan" means any loan, other than a mortgage banking
9 loan, secured by a mortgage or deed of trust or any lien interest on real
10 estate located in this state and created with the consent of the owner of
11 the real estate."

12 Sec. 5. Section 6-971, Arizona Revised Statutes, is amended to read:

13 6-971. Definitions

14 In this article, unless the context otherwise requires:

15 1. "Affiliate" means an entity that directly or indirectly, through
16 one or more intermediaries, controls, is controlled by or is under common
17 control with the specified entity.

18 2. "Commercial mortgage banker" means a person who engages in the
19 following:

20 (a) Originating commercial mortgage loans.

21 (b) Servicing commercial mortgage loans.

22 (c) Either directly or indirectly making, negotiating or offering to
23 make or negotiate commercial mortgage loans.

24 3. "Commercial mortgage loan" means a loan that is directly or
25 indirectly secured by a mortgage or deed of trust or any lien interest on
26 commercial property and created with the consent of the owner of the
27 commercial property.

28 4. "Commercial mortgage loan closing" means the day by which all
29 documents relating to the commercial mortgage loan have been executed and
30 recorded and all monies have been accounted for under the terms of the
31 escrow instructions.

1 5. "Commercial property" means real estate that is located in this
2 state and that is not used for a one to four family residence.

3 6. "Compensation" means anything of value or any benefit including
4 points, commissions, bonuses, referral fees, loan origination fees and
5 other similar fees but excluding periodic interest resulting from the
6 application of the note rate of interest to the outstanding principal
7 balance remaining unpaid from time to time.

8 7. "GENERALLY ACCEPTED ACCOUNTING PRINCIPLES" MEANS UNITED STATES
9 GENERALLY ACCEPTED ACCOUNTING PRINCIPLES ISSUED BY THE FINANCIAL ACCOUNTING
10 STANDARDS BOARD OR THE INTERNATIONAL FINANCIAL REPORTING STANDARDS ISSUED
11 BY THE INTERNATIONAL ACCOUNTING STANDARDS BOARD.

12 ~~7.~~ 8. "Institutional investor" means a person who in the regular
13 course of business makes commercial mortgage loans of more than two hundred
14 fifty thousand dollars that are funded exclusively from the institutional
15 investor's own resources.

16 ~~8.~~ 9. "Investor" means a person who directly or indirectly provides
17 monies to a commercial mortgage banker that are, or are intended to be,
18 used to make a loan, and any person who purchases a loan, or any interest
19 in a loan, from a commercial mortgage banker or in a transaction that has
20 been directly or indirectly arranged or negotiated by a commercial mortgage
21 banker.

22 ~~9.~~ 10. "License" means a license issued under this article.

23 ~~10.~~ 11. "Licensee" means a person who is licensed under this
24 article.

25 ~~11.~~ 12. "Own resources" means any of the following:

26 (a) Cash, corporate capital, warehouse credit lines at commercial
27 banks, savings banks or savings and loan associations or other sources that
28 are liability items on the person's financial statements.

29 (b) Correspondent contracts between the commercial mortgage banker
30 and an institutional investor, bank, savings bank, trust company, savings
31 and loan association, credit union, profit sharing or pension trust,
32 consumer lender or insurance company.

1 (c) The person's affiliates' cash, corporate capital, warehouse
2 credit lines at commercial banks or other sources that are liability items
3 on the affiliates' financial statements for which the affiliates' assets
4 are pledged.

5 ~~12.~~ 13. "Servicing commercial mortgage loans" means collecting
6 payments at a location in this state on commercial mortgage loans,
7 including:

8 (a) Principal.

9 (b) Interest.

10 (c) Trust items such as hazard insurance premiums, taxes and various
11 reserves on an obligation under the terms of the obligation.

12 (d) Operational procedures covering accounting, bookkeeping,
13 insurance, tax records, loan payment follow-up, delinquency loan follow-up,
14 loan analysis and property valuation."

15 Renumber to conform

16 Page 6, line 37, after "person" insert "OR AN EMPLOYEE OF AN AFFILIATED ENTITY OR
17 THE PARENT COMPANY OF THE LICENSEE"

18 Line 40, after "licensee" strike remainder of line

19 Line 41, strike "THE LICENSEE"

20 Amend title to conform

And, as so amended, it do pass

JEFF WENINGER
CHAIRMAN

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