

State of South Dakota

NINETY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2017

490Y0263

SENATE ENGROSSED NO. **HB 1179** - 3/7/2017

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Lust, Hawley, Lake, Mickelson, Otten (Herman), Reed, Rozum, Stevens, and Tieszen and Senators Cronin, Frerichs, Greenfield (Brock), and Peters

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to exemptions from
2 licensure for nonresidential mortgage loans.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 54-14-13 be amended to read:

5 54-14-13. No person may act as a mortgage lender, mortgage brokerage, mortgage broker,
6 or mortgage loan originator in this state or use the title, mortgage lender, mortgage brokerage,
7 mortgage broker, or mortgage loan originator with respect to any property located in South
8 Dakota without first obtaining and maintaining a license according to the requirements of this
9 chapter. Each person shall be licensed or registered, and maintain a unique identifier through
10 the nationwide mortgage licensing system and registry.

11 The requirements of this chapter, except for the provisions of chapter 10-43 as referenced
12 in § 54-14-30, do not apply to any person who, on, before, or after the effective date of this Act,
13 originates, sells, or services five or fewer nonresidential mortgage loans in a twelve-month
14 period as long as the total amount of the loans outstanding does not exceed four million dollars.



1 The exemption under this section applies jointly to every entity in which a person has an equity
2 interest, whether the loan or loans are made by that person or through an entity in which the
3 person holds an equity interest.

4 Any person exempted by the provisions of this section shall report to the division annually,
5 no later than December thirty-first of 2017, and every subsequent year for any year in which
6 nonresidential mortgage loans are originated, sold, or serviced. The annual report shall contain
7 the name and address of the person who originated, sold, or serviced nonresidential mortgage
8 loans, the number of nonresidential mortgage loans originated, sold, or serviced in the preceding
9 calendar year, and the total balance of all nonresidential mortgage loans originated, sold, or
10 serviced.

11 Section 2. That § 54-14-20.1 be amended to read:

12 54-14-20.1. The following are exempt from the requirement of obtaining a mortgage loan
13 originator license:

- 14 (1) Any individual who offers or negotiates terms of a mortgage loan with or on behalf
15 of an immediate family member of the individual;
- 16 (2) Any individual who offers or negotiates terms of a residential mortgage loan secured
17 by a dwelling that served as the individual's residence; or
- 18 (3) Any individual who, on, before, or after the effective date of this Act, offers or
19 negotiates terms of ~~three or less~~ five or fewer nonresidential mortgage loans in a
20 ~~twelve-month~~ twelve-month period as long as the total amount of the loans
21 outstanding does not exceed four million dollars.

22 Section 3. That chapter 54-4 be amended by adding a NEW SECTION to read:

23 Any person who, on, before, or after the effective date of this Act, originates, sells, services,
24 or acquires five or fewer loans in a twelve-month period is exempt from this chapter, except for

1 the provisions of chapter 10-43 as referenced in § 54-4-54, as long as the total amount of the
2 loans outstanding does not exceed four million dollars. The exemption under this section applies
3 jointly to every entity in which a person has an equity interest, whether the loan or loans are
4 made by that person or through an entity in which the person holds an equity interest.

5 Any person exempted by the provisions of this section shall report to the division annually,
6 no later than December thirty-first of 2017, and every subsequent year for any year in which
7 loans are originated, sold, serviced, or acquired. The annual report shall contain the name and
8 address of the person who originated, sold, serviced, or acquired loans, the number of loans
9 originated, sold, serviced, or acquired in the preceding calendar year, and the total balance of
10 all loans originated, sold, serviced, or acquired.

11 Section 4. That chapter 54-4 be amended by adding a NEW SECTION to read:

12 The exemptions under this chapter do not apply to any debt-collection tactic prohibited in
13 § 54-4-77.