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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 3695

03/29/2016 Authored by Applebaum

The bill was read for the first time and referred to the Committee on Civil Law and Data Practices

1.1 A bill for an act
1.2 relating to commerce; regulating applicants and licensees; amending Minnesota
1.3 Statutes 2014, sections 53B.05, subdivision 1, by adding a subdivision; 53B.07,
1.4 by adding a subdivision; 53B.08, subdivision 1; 53B.10, subdivision 1; 53B.11,
1.5 subdivision 3; 53B.13; 58.04, subdivision 1; 58.11, subdivision 2; 58A.07,
1.6 subdivision 1; 58A.09, subdivision 1.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2014, section 53B.05, subdivision 1, is amended to read:

1.9 Subdivision 1. **Net worth.** Each licensee engaging in money transmission in three
1.10 or fewer locations in the state, either directly or through authorized delegates, must have a
1.11 net worth of at least ~~\$25,000~~ \$100,000. Each licensee engaging in money transmission at
1.12 more than three locations in the state, but fewer than seven locations, either directly or
1.13 through authorized delegates, must have a net worth of at least ~~\$50,000~~ \$200,000. Each
1.14 licensee engaging in money transmission at more than six locations in the state, either
1.15 directly or through authorized delegates, shall have a net worth of ~~\$100,000~~ \$400,000 and
1.16 an additional net worth of ~~\$50,000~~ \$200,000 for each location or authorized delegate
1.17 located in the state in excess of seven, to a maximum of ~~\$500,000~~ \$2,000,000. Net worth
1.18 shall be calculated in accordance with generally accepted accounting principles.

1.19 Sec. 2. Minnesota Statutes 2014, section 53B.05, is amended by adding a subdivision
1.20 to read:

1.21 Subd. 3. **Physical presence.** A licensee shall at all times maintain a physical
1.22 presence in the United States, which at a minimum means having a mailing address and a
1.23 registered agent in the United States.

2.1 Sec. 3. Minnesota Statutes 2014, section 53B.07, is amended by adding a subdivision
2.2 to read:

2.3 Subd. 6. **Change of circumstances.** The money transmitter shall promptly notify
2.4 the commissioner of every material change in the facts or in the documents on which the
2.5 application is based within 30 days of the change.

2.6 Sec. 4. Minnesota Statutes 2014, section 53B.08, subdivision 1, is amended to read:

2.7 Subdivision 1. **Requirement.** (a) Each application must be accompanied by a
2.8 surety bond, irrevocable letter of credit, or other similar security device acceptable to the
2.9 commissioner in the amount of ~~\$25,000~~ \$100,000. If the applicant proposes to engage in
2.10 business under this chapter at more than three locations, but less than seven locations,
2.11 through authorized delegates or otherwise, then the amount of the security device must be
2.12 increased to ~~\$50,000~~ \$200,000. If the applicant proposes to engage in business under this
2.13 chapter at more than six locations, through authorized delegates or otherwise, then the
2.14 amount of the security device must be increased by ~~\$50,000~~ \$400,000 for each location
2.15 over six, up to a maximum of ~~\$250,000~~ \$2,000,000. The security device must be in a form
2.16 satisfactory to the commissioner and must run to the state for the benefit of any claimants
2.17 against the licensee to secure the faithful performance of the obligations of the licensee
2.18 with respect to the receipt, handling, transmission, and payment of money in connection
2.19 with the sale and issuance of payment instruments or transmission of money. In the case
2.20 of a bond, the aggregate liability of the surety in no event shall exceed the principal sum
2.21 of the bond. Claimants against the licensee may themselves bring suit directly on the
2.22 security device or the commissioner may bring suit on behalf of these claimants, either in
2.23 one action or in successive actions.

2.24 (b) The dollar amounts required in paragraph (a) may be increased by the
2.25 commissioner based on the risk profile of the applicant.

2.26 Sec. 5. Minnesota Statutes 2014, section 53B.10, subdivision 1, is amended to read:

2.27 Subdivision 1. **Investigation.** Upon the filing of a complete application, the
2.28 commissioner shall investigate the financial condition and responsibility, financial and
2.29 business experience, character, and general fitness of the applicant. The commissioner
2.30 may conduct an on-site investigation of the applicant, the reasonable cost of which must
2.31 be borne by the applicant. If the commissioner finds that the requirements imposed by this
2.32 chapter have been met and that the required license fee has been paid, the commissioner
2.33 shall issue a license to the applicant authorizing the applicant to engage in the licensed
2.34 activities in this state for a an annually renewable term of one year, ending on December

3.1 31 of the calendar year the license is issued. If these requirements have not been met, the
 3.2 commissioner shall deny the application in writing, setting forth the reasons for the denial.

3.3 Sec. 6. Minnesota Statutes 2014, section 53B.11, subdivision 3, is amended to read:

3.4 Subd. 3. **License display.** A copy of the license issued by the commissioner to the
 3.5 licensee shall be prominently displayed in each location, including Internet locations,
 3.6 where money transmission services are offered.

3.7 Sec. 7. Minnesota Statutes 2014, section 53B.13, is amended to read:

3.8 **53B.13 CHANGES IN CONTROL OF A LICENSEE.**

3.9 Any purchaser of ten percent or more of an ownership interest in a licensee
 3.10 must notify the commissioner at least 30 days in advance of the purchase and submit
 3.11 a completed license application on a form prescribed by the commissioner. The
 3.12 commissioner may revoke the license if the new ownership would have resulted in a denial
 3.13 of the initial license under this chapter. The commissioner may waive this notification
 3.14 requirement if, in the commissioner's discretion, the change in control does not pose any
 3.15 risk to the interests of the public.

3.16 Sec. 8. Minnesota Statutes 2014, section 58.04, subdivision 1, is amended to read:

3.17 Subdivision 1. **Residential mortgage originator licensing requirements.** (a)

3.18 No person shall act as a residential mortgage originator, or make residential mortgage
 3.19 loans without first obtaining a license from the commissioner according to the licensing
 3.20 procedures provided in this chapter.

3.21 (b) A licensee must be either a partnership, limited liability partnership, association,
 3.22 limited liability company, corporation, or other form of business organization, and must
 3.23 have and maintain a surety bond in the amounts prescribed under section 58.08.

3.24 (c) The following persons are exempt from the residential mortgage originator
 3.25 licensing requirements:

3.26 (1) a person who is not in the business of making residential mortgage loans and who
 3.27 makes no more than three such loans, with its own funds, during any 12-month period;

3.28 (2) a financial institution as defined in section 58.02, subdivision 10;

3.29 (3) an agency of the federal government, or of a state or municipal government;

3.30 (4) an employee or employer pension plan making loans only to its participants;

3.31 (5) a person acting in a fiduciary capacity, such as a trustee or receiver, as a result of
 3.32 a specific order issued by a court of competent jurisdiction; or

3.33 (6) a company that is sponsoring independent loan processors or underwriters; or

4.1 ~~(6)~~ (7) a person exempted by order of the commissioner.

4.2 Sec. 9. Minnesota Statutes 2014, section 58.11, subdivision 2, is amended to read:

4.3 Subd. 2. **Timely renewal.** (a) A person whose application is properly and timely
 4.4 filed who has not received notice of denial of renewal is considered approved for renewal
 4.5 and the person may continue to transact business as a residential mortgage originator or
 4.6 servicer whether or not the renewed license has been received on or before January 1 of
 4.7 the renewal year. Application for renewal of a license is considered timely filed if received
 4.8 by the commissioner by, or mailed with proper postage and postmarked by, December 15
 4.9 of the renewal year. An application for renewal is considered properly filed if made upon
 4.10 forms duly executed and sworn to, accompanied by fees prescribed by this chapter, and
 4.11 containing any information that the commissioner requires.

4.12 (b) A person who fails to make a timely application for renewal of a license and
 4.13 who has not received the renewal license as of January 1 of the renewal year is unlicensed
 4.14 until the renewal license has been issued approved by the commissioner ~~and is received~~
 4.15 ~~by the person.~~

4.16 Sec. 10. Minnesota Statutes 2014, section 58A.07, subdivision 1, is amended to read:

4.17 Subdivision 1. **Generally.** In order to meet the written test requirement referred to
 4.18 in section 58A.05, clause (5), an individual shall pass, in accordance with the standards
 4.19 established under this section, a qualified written test developed by the Nationwide
 4.20 ~~Mortgage~~ Multistate Licensing System and Registry (NMLSR) and designated as the
 4.21 NMLSR's National Test Component with Uniform State Content for Mortgage Loan
 4.22 Originator Licensing and administered by a test provider approved by the ~~Nationwide~~
 4.23 ~~Mortgage Licensing System and Registry~~ NMLSR based upon reasonable standards.

4.24 Sec. 11. Minnesota Statutes 2014, section 58A.09, subdivision 1, is amended to read:

4.25 Subdivision 1. **Generally.** In order to meet the annual continuing education
 4.26 requirements referred to in section 58A.08, subdivision 1, clause (2), a licensed mortgage
 4.27 loan originator shall complete at least eight hours of education approved according to
 4.28 subdivision 2 that includes at least:

4.29 (1) three hours of federal law and regulations;

4.30 (2) two hours of ethics, which includes instruction on fraud, consumer protection,
 4.31 and fair lending issues; ~~and~~

4.32 (3) two hours of training related to lending standards for the nontraditional mortgage
 4.33 product marketplace; and

5.1 (4) one hour of Minnesota state law and rules.

5.2 Sec. 12. **REVISOR'S INSTRUCTION.**

5.3 The revisor of statutes shall change the term "Nationwide Mortgage Licensing
5.4 System and Registry" or similar term to "Nationwide Multistate Licensing System and
5.5 Registry" wherever the term appears in Minnesota Statutes, chapter 58A.