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SENATE BILL NO. 785

Offered January 8, 2020

Prefiled January 8, 2020

A BILL to amend and reenact § 6.2-1701 of the Code of Virginia, relating to mortgage loan originators; exemption for retailers of manufactured or modular homes.

Patron—Lewis

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:**1. That § 6.2-1701 of the Code of Virginia is amended and reenacted as follows:****§ 6.2-1701. License requirement.**

A. Except as otherwise provided in § 6.2-1701.3, no individual shall engage in the business of a mortgage loan originator unless such individual has first obtained and maintains annually a license under this chapter.

B. The following shall be exempt from licensing and other provisions of this chapter:

1. Any individual engaged solely as a loan processor or underwriter. Except as otherwise provided in this subsection, an individual acting as an independent contractor may not engage in residential mortgage loan origination activities as a loan processor or underwriter unless such individual has first obtained and maintains annually a mortgage loan originator license;

2. Any individual who only performs administrative or clerical tasks on behalf of a mortgage loan originator;

3. Any individual who only performs real estate brokerage activities and is licensed or registered in accordance with applicable law, unless the individual is compensated directly or indirectly by the lender, a mortgage broker, or other mortgage loan originator or by any agent of such lender, mortgage broker, or other mortgage loan originator;

4. Any individual solely involved in extensions of credit relating to timeshare plans, as that term is defined in 11 U.S.C. § 101 (53D);

5. A registered mortgage loan originator;

6. Any individual who offers or negotiates terms of a residential mortgage loan with or on behalf of an immediate family member of the individual;

7. Any individual who acts as a loan originator in providing financing for the sale of that individual's own residence;

8. A licensed attorney, provided that the attorney's mortgage loan origination activities are: (i) considered by the Supreme Court of Virginia to be part of the authorized practice of law within the Commonwealth, (ii) carried out within an attorney-client relationship, and (iii) accomplished by the attorney in compliance with all applicable laws, rules, ethics, and standards;

9. Any employee of federal, state, or local government, or a housing finance agency, who acts as a mortgage loan originator only pursuant to his official duties of employment. For the purposes of this subdivision, "local government" means any county, city, or town or other local or regional political subdivision; ~~and~~

10. Any employee of a bona fide nonprofit organization, as determined by the Commission in accordance with § 6.2-1701.1, who acts as a mortgage loan originator only (i) pursuant to his official duties of employment and (ii) with respect to residential mortgage loans with terms that are favorable to a borrower; *and*

11. *Any retailer of manufactured or modular homes or an employee of the retailer if the retailer or employee, as applicable:*

a. Does not receive compensation or gain for engaging in activities described in the definition of mortgage loan originator in § 6.2-1700 that is in excess of any compensation or gain received in a comparable cash transaction;

b. Discloses to the consumer:

(1) In writing any corporate affiliation with any creditor; and

(2) If the retailer has a corporate affiliation with any creditor, at least one unaffiliated creditor; and

c. Does not directly negotiate with the consumer or lender on loan terms, including rates, fees, and other costs.

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