

1 SENATE CORPORATIONS AND TRANSPORTATION COMMITTEE SUBSTITUTE FOR
2 SENATE BILL 411

3
4
5
6
7
8
9
10
11 **50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

12
13
14
15
16
17
18
19
20
21
22
23
24
25
AN ACT

RELATING TO RESIDENTIAL MORTGAGE LOANS; AMENDING THE MORTGAGE
LOAN COMPANY ACT TO REQUIRE THAT LICENSEES MAINTAIN AN OFFICE
IN THIS STATE, TO REQUIRE THAT CERTAIN RECORDS BE ACCESSIBLE AT
THE OFFICE AND TO REQUIRE THAT QUALIFIED MANAGERS BE RESIDENTS
OF THIS STATE; PROVIDING EXEMPTIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 58-21-3 NMSA 1978 (being Laws 1983,
Chapter 86, Section 3, as amended) is amended to read:

"58-21-3. LICENSE REQUIRED--QUALIFIED MANAGER.--

A. It is unlawful for any person to transact
business in the state of New Mexico, either directly or
indirectly, as a mortgage loan company without first filing an
application with the director, meeting requirements established
by the director and obtaining a license under the Mortgage Loan

.185490.2

1 Company Act.

2 B. A mortgage loan company shall designate at least
3 one qualified manager who shall:

4 (1) unless exempted pursuant to Subsection C
5 of Section 58-21-33 NMSA 1978, be a resident of this state;

6 ~~[(1)]~~ (2) obtain and maintain a mortgage loan
7 originator license and unique identifier number pursuant to the
8 New Mexico Mortgage Loan Originator Licensing Act; and

9 ~~[(2)]~~ (3) have not less than two years
10 verifiable experience as a principal, partner, officer,
11 director, manager, processor or underwriter of a mortgage loan
12 company or a mortgage loan originator or have equivalent
13 lending experience in a related business during the four years
14 immediately preceding the time of application.

15 C. A qualified manager shall serve as a qualified
16 manager for only one mortgage loan company."

17 SECTION 2. Section 58-21-11 NMSA 1978 (being Laws 1983,
18 Chapter 86, Section 11, as amended by Laws 2001, Chapter 251,
19 Section 8 and by Laws 2001, Chapter 264, Section 8) is amended
20 to read:

21 "58-21-11. KEEPING OF RECORDS.--Every mortgage loan
22 company ~~[and loan broker]~~ shall make and keep those accounts,
23 correspondence, memoranda, papers, books, data and other
24 records as the director by rule prescribes. All records so
25 required shall be preserved for six years. Unless exempt from

1 the requirement to maintain a registered office in New Mexico,
2 the records shall be kept:

3 A. in the registered New Mexico office of the
4 licensed mortgage loan company; or

5 B. in a digital format that can be reproduced in
6 the registered New Mexico office of the licensed mortgage loan
7 company."

8 SECTION 3. A new section of the Mortgage Loan Company
9 Act, Section 58-21-33 NMSA 1978, is enacted to read:

10 "58-21-33. [NEW MATERIAL] REGISTERED OFFICE REQUIRED--
11 EXEMPTIONS.--

12 A. Except as provided in Subsection C of this
13 section, a licensed mortgage loan company shall have and
14 continuously maintain in this state a registered office, which
15 may be the same as the licensee's principal office.

16 B. A licensed mortgage loan company may change the
17 registered office by filing in the office of the director a
18 statement that includes:

19 (1) the name of the licensed mortgage loan
20 company;

21 (2) the address of its registered office; and

22 (3) the address to which the registered office
23 is changed.

24 C. The requirement of Subsection A of this section
25 and the requirement of Paragraph (1) of Subsection B of Section

.185490.2

1 58-21-3 NMSA 1978 shall not apply to a licensed mortgage loan
2 company:

3 (1) whose only business in New Mexico is the
4 refinancing or modifying of mortgage loans held or serviced by
5 that company;

6 (2) whose only business in New Mexico as a
7 mortgage loan company relates to mortgages on manufactured
8 housing;

9 (3) whose only business in New Mexico is as a
10 wholesale lender directly or indirectly providing financing for
11 mortgages through another licensed mortgage loan company; or

12 (4) that is an affiliate of a national bank."

13 SECTION 4. EFFECTIVE DATE.--The effective date of the
14 provisions of this act is November 1, 2011.