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SENATE BILL 411

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Phil A. Griego

AN ACT

RELATING TO RESIDENTIAL MORTGAGE LOANS; AMENDING THE NEW MEXICO MORTGAGE LOAN COMPANY ACT TO REQUIRE THAT LICENSEES MAINTAIN AN OFFICE AND A REGISTERED AGENT IN THIS STATE.

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

SECTION 1. Section 58-21-11 NMSA 1978 (being Laws 1983, Chapter 86, Section 11, as amended by Laws 2001, Chapter 251, Section 8 and by Laws 2001, Chapter 264, Section 8) is amended to read:

"58-21-11. KEEPING OF RECORDS.--Every mortgage loan company [~~and loan broker~~] shall make and keep those accounts, correspondence, memoranda, papers, books, data and other records as the director by rule prescribes. All records so required shall be preserved for six years. Unless exempt from the requirement to maintain a registered office in New Mexico,

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1 the records shall be kept in the registered New Mexico office
2 of the licensed mortgage loan company."

3 SECTION 2. A new section of the Mortgage Loan Company Act
4 is enacted to read:

5 "[NEW MATERIAL] REGISTERED OFFICE AND REGISTERED AGENT.--

6 A. Except as provided in Subsection B of this
7 section, a licensed mortgage loan company shall have and
8 continuously maintain in this state:

9 (1) a registered office, which may be the same
10 as the licensee's principal office; and

11 (2) a registered agent that shall be:

12 (a) an individual resident in the state
13 whose business office is identical with the registered office
14 of the licensed mortgage loan company and who is licensed
15 pursuant to the New Mexico Mortgage Loan Originator Licensing
16 Act;

17 (b) a for-profit or not-for-profit
18 domestic corporation having an office identical with the
19 registered office of the licensed mortgage loan company,
20 provided that an employee or officer of the corporation shall
21 be licensed pursuant to the New Mexico Mortgage Loan Originator
22 Licensing Act; or

23 (c) a for-profit or not-for-profit
24 foreign corporation authorized to transact business or conduct
25 affairs in New Mexico and having an office identical with the

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1 registered office of the licensed mortgage loan company,
2 provided that an employee or officer of the corporation shall
3 be licensed pursuant to the New Mexico Mortgage Loan Originator
4 Licensing Act;

5 B. The requirements of Subsection A of this section
6 shall not apply to a licensed mortgage loan company whose only
7 business in New Mexico is the refinancing or modifying of
8 mortgage loans held or serviced by that company."

9 SECTION 3. A new section of the Mortgage Loan Company Act
10 is enacted to read:

11 "[NEW MATERIAL] CHANGE OF REGISTERED OFFICE OR REGISTERED
12 AGENT.--

13 A. A licensed mortgage loan company may change the
14 registered office or the registered agent, or both, by filing
15 in the office of the director a statement that includes:

- 16 (1) the name of the licensed mortgage loan
17 company;
- 18 (2) the address of its registered office;
- 19 (3) if the address of the licensed mortgage
20 loan company's registered office is changed, the address to
21 which the registered office is changed;
- 22 (4) the name of the registered agent;
- 23 (5) if the licensed mortgage loan company's
24 registered agent is changed:
 - 25 (a) the name of the successor registered

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1 agent;

2 (b) if the successor registered agent is
3 an individual, a statement executed by the successor registered
4 agent acknowledging the agent's acceptance of the appointment
5 by the licensed mortgage loan company as the registered agent;
6 and

7 (c) if the successor registered agent is
8 a corporation, an affidavit executed by the president or vice
9 president of the corporation in which the officer acknowledges
10 the corporation's acceptance of the appointment by the licensed
11 mortgage loan company as the registered agent; and

12 (6) a statement that the address of the
13 licensed mortgage loan company's registered office and the
14 address of the office of the registered agent, as changed, will
15 be identical.

16 B. The statement made pursuant to the provisions of
17 Subsection A of this section shall be executed by the licensed
18 mortgage loan company or one of its officers and delivered to
19 the director. The change of address of the registered office,
20 or the appointment of a new registered agent, or both, shall
21 become effective upon filing of the statement required by this
22 section.

23 C. A registered agent of a licensed mortgage loan
24 company may resign as agent upon filing a written notice
25 thereof, executed in duplicate, with the director. The

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1 director shall mail a copy immediately to the licensed mortgage
2 loan company. The appointment of the agent shall terminate
3 upon the expiration of thirty days after receipt of the notice
4 by the director."

5 SECTION 4. A new section of the Mortgage Loan Company Act
6 is enacted to read:

7 "[NEW MATERIAL] SERVICE OF PROCESS ON LICENSED MORTGAGE
8 LOAN ORIGINATOR.--The registered agent appointed by a licensed
9 mortgage loan company shall be an agent of the licensed
10 mortgage loan company upon whom any process, notice or demand
11 required or permitted by law to be served upon the licensed
12 mortgage loan company may be served. Nothing in this section
13 limits or affects the right for process, notice or demand to be
14 served upon a licensed mortgage loan company in any other
15 manner permitted by law."

16 SECTION 5. EFFECTIVE DATE.--The effective date of the
17 provisions of this act is July 1, 2011.