

COMMITTEE ON FINANCIAL INSTITUTIONS

SENATE AMENDMENTS TO S.B. 1006

(Reference to printed bill)

1 Page 1, between lines 1 and 2, insert:

2 “Section 1. Section 6-902, Arizona Revised Statutes, is amended to
3 read:

4 6-902. Exemptions

5 A. This article does not apply to:

6 1. A person who does business under any other law of this state, or
7 law of any other state while regulated by a state agency of such other state
8 or the United States, relating to banks, savings banks, trust companies,
9 savings and loan associations, profit sharing and pension trusts, credit
10 unions, insurance companies or consumer lenders, or receivership, including
11 directly or indirectly making, negotiating or offering to make or negotiate a
12 mortgage loan if the mortgage transactions are regulated by the other law or
13 are under the jurisdiction of a court. Subsidiaries and service corporations
14 of these institutions shall not be exempt and shall be subject to the
15 provisions of this article unless preempted by federal law.

16 2. A person who makes a mortgage loan:

- 17 (a) With his own monies.
18 (b) For his own investment.
19 (c) Without intent to resell.
20 (d) And is not engaged in the business of making mortgage loans.

21 3. A person who funds a mortgage loan which has been originated and
22 processed by a licensee, by a mortgage banker licensed in this state or by a
23 person exempt under paragraph 1 of this subsection and who meets all of the
24 following:

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1 (a) Does not maintain a place of business in this state in connection
2 with funding mortgage loans.

3 (b) Does not directly or indirectly solicit borrowers in this state
4 for the purpose of making mortgage loans.

5 (c) Does not participate in the negotiation of mortgage loans.

6 4. A person who, as seller of real property, receives one or more
7 mortgages or deeds of trust as security for a purchase money obligation.

8 5. A person who is licensed to practice law in this state, but is not
9 actively and principally engaged in the business of negotiating mortgage
10 loans, if this person renders services in the course of his practice as an
11 attorney at law.

12 6. A person who receives a mortgage or deed of trust on real property
13 as security for an obligation payable on an installment or deferred payment
14 basis and arising out of materials furnished or services rendered in the
15 improvement of that real property or any lien created without the consent of
16 the owner of the real property.

17 7. A person who is licensed pursuant to article 2 or 3 of this
18 chapter.

19 8. An agency of any state or of the United States.

20 9. A nonprofit federally tax exempt corporation certified by the
21 United States small business administration and organized to promote economic
22 development within this state whose primary activity consists of providing
23 financing for business expansion.

24 10. An institutional investor as defined in section 6-971 unless the
25 institutional investor makes a mortgage loan other than a commercial mortgage
26 loan **OR A COMMERCIAL BUSINESS PURPOSE LOAN** as defined in section 6-971.

27 B. For the purposes of:

28 1. Subsection A, paragraph 3 of this section, "originate" includes
29 loans closed in a name other than that of the licensee, a mortgage banker
30 licensed in this state or **AN** exempt person only if the person in whose name
31 the loan is closed meets the other requirements of subsection A, paragraph 3
32 of this section.

33 2. Subsection A, paragraph 3, subdivision (c) of this section,
34 "negotiation of mortgage loans" does not include setting the terms under

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1 which a person may buy a mortgage loan originated by a licensee or a person
2 exempt under subsection A, paragraph 1 of this section.

3 Sec. 2. Section 6-942, Arizona Revised Statutes, is amended to read:

4 6-942. Exemptions

5 A. This article does not apply to:

6 1. A person who does business under any other law of this state, or
7 any other state while regulated by a state agency of such other state, or of
8 the United States, relating to banks, savings banks, trust companies, savings
9 and loan associations, profit sharing and pension trusts, credit unions,
10 insurance companies or consumer lenders, or receiverships, including directly
11 or indirectly making, negotiating or offering to make or negotiate a mortgage
12 banking loan or a mortgage loan if the mortgage transactions are regulated by
13 the other law or are under the jurisdiction of a court.

14 2. A person who makes a mortgage banking loan or a mortgage loan:

- 15 (a) With his own monies.
- 16 (b) For his own investment.
- 17 (c) Without intent to resell.

18 (d) And is not engaged in the business of making mortgage loans or
19 mortgage banking loans.

20 3. A person who funds a mortgage loan or mortgage banking loan which
21 has been originated and processed by a licensee, by a mortgage broker
22 licensed in this state or by a person exempt under paragraph 1 of this
23 subsection and who meets all of the following:

- 24 (a) Does not maintain a place of business in this state in connection
25 with funding mortgage loans or mortgage banking loans.
- 26 (b) Does not directly or indirectly solicit borrowers in this state
27 for the purpose of making mortgage loans.
- 28 (c) Does not participate in the negotiation of mortgage loans.

29 4. A person who, as seller of real property, receives one or more
30 mortgages or deeds of trust as security for a purchase money obligation.

31 5. A person who is licensed to practice law in this state, but is not
32 actively and principally engaged in the business of negotiating mortgage
33 banking loans or mortgage loans, if this person renders services in the
34 course of his practice as an attorney at law.

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1 6. A person who receives a mortgage or deed of trust on real property
2 as security for an obligation payable on an installment or deferred payment
3 basis and arising out of materials furnished or services rendered in the
4 improvement of that real property or any lien created without the consent of
5 the owner of such real property.

6 7. A person who is licensed pursuant to article 1 or 3 of this
7 chapter.

8 8. An agency of any state or of the United States.

9 9. A nonprofit federally tax exempt corporation certified by the
10 United States small business administration and organized to promote economic
11 development within this state whose primary activity consists of providing
12 financing for business expansion.

13 10. An institutional investor as defined in section 6-971 unless the
14 institutional investor makes either:

15 (a) A mortgage loan other than a commercial mortgage loan **OR A**
16 **COMMERCIAL BUSINESS PURPOSE LOAN** as defined in section 6-971.

17 (b) A mortgage banking loan other than a commercial mortgage loan **OR A**
18 **COMMERCIAL BUSINESS PURPOSE LOAN** as defined in section 6-971.

19 B. Subsidiaries and service corporations of institutions exempt under
20 subsection A, paragraph 1 of this section shall not be exempt and shall be
21 subject to the provisions of this article unless preempted by federal law.

22 C. For the purposes of:

23 1. Subsection A, paragraph 3 of this section, "originate" includes
24 loans closed in a name other than that of the licensee, a mortgage broker
25 licensed in this state or **AN** exempt person only if the person in whose name
26 the loan is closed meets the other requirements of subsection A, paragraph 3
27 of this section.

28 2. Subsection A, paragraph 3, subdivision (c) of this section,
29 negotiation of mortgage loans does not include setting the terms under which
30 a person may buy a mortgage loan originated by a licensee or a person exempt
31 under subsection A, paragraph 1 of this section."

32 Rerumber to conform

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1 Page 1, line 11, strike the second "A" insert "**ANY REAL**"

2 Line 12, after "THE" insert "**REAL**"

3 Page 2, after line 21, insert:

4 "Sec. 4. Section 6-1302, Arizona Revised Statutes, is amended to read:

5 **6-1302. Scope of chapter: exemptions**

6 A. Any person who acts as an advance fee loan broker shall register
7 with the superintendent as provided in this chapter. A person who is not
8 exempt under subsection B of this section and who advertises for, solicits or
9 purports to be willing to make or procure a loan or extension of credit for
10 an advance fee is presumed to be engaged in the business of an advance fee
11 loan broker.

12 B. This chapter does not apply to:

13 1. Individuals not regularly engaged in the business of making or
14 procuring loans or extensions of credit for an advance fee.

15 2. A person doing business as permitted by any law of any state or of
16 the United States relating to banks, savings banks, trust companies, savings
17 and loan associations, credit unions, insurance companies, consumer lenders
18 or profit sharing and pension trusts.

19 3. A person licensed as a mortgage broker, a mortgage banker or a
20 commercial mortgage banker pursuant to chapter 9 of this title.

21 4. A person who makes a loan with the person's own money or for the
22 person's own investment.

23 5. A person licensed as a real estate broker or salesperson pursuant
24 to title 32, chapter 20, article 2.

25 6. A person who is licensed to practice law in this state but who is
26 not actively and principally engaged in the business of making or procuring
27 loans or extensions of credit, if this person renders services in the course
28 of the person's practice as an attorney.

29 7. An institutional investor as defined in section 6-971 unless the
30 institutional investor advertises for, solicits or holds himself out as
31 willing to make or procure for an advance fee a loan or extension of credit
32 other than a commercial mortgage loan **OR A COMMERCIAL BUSINESS PURPOSE LOAN**
33 as defined in section 6-971.

34 8. This state including any political subdivision of this state.

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1 9. The United States or any department or agency of the United
2 States."

3 Amend title to conform

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