



THOMAS J. VILSACK  
GOVERNOR

OFFICE OF THE GOVERNOR

SALLY J. PEDERSON  
LT. GOVERNOR

April 29, 2005

The Honorable Chester Culver  
Secretary of State  
State Capitol Building  
L O C A L

Dear Mr. Secretary:

I hereby transmit:

**House File 253**, an Act relating to governmental ethics and the duties of the Iowa Ethics and Campaign Disclosure Board.

**House File 313**, an Act relating to the establishment of an industrial processing exemption study committee and including an effective date.

**House File 398**, an Act adding an exemption for colleges and universities established by city ordinance to the requirements relating to the registration of postsecondary schools.

**House File 423**, an Act relating to participation in secondary school interscholastic sports at the varsity and inferior levels.

**House File 532**, an Act relating to the administrative functions of the Department of Cultural Affairs, including the Board of Trustees of the State Historical Society of Iowa and the State Records Commission.

**House File 645**, an Act relating to the regulation of lotteries, including the definition of a lottery, permissible lotteries by commercial organizations, and the prosecution of violators.

**House File 700**, an Act relating to the Iowa Soybean Association, by providing for its board of directors, market development, and providing for an assessment.

**House File 737**, an Act relating to the registration and licensing of mortgage bankers and brokers, providing for fees, and providing an effective date.



**House File 745**, an Act relating to the criminal offense of theft of leased or rented personal property and making penalties applicable.

**House File 746**, an Act providing procedures for a rural water district to transfer its right to provide water or wastewater service and for dissolution of the district.

**House File 754**, an Act relating to a homestead exemption waiver notice contained in a written contract affecting agricultural land.

**House File 777**, an Act relating to testing a person for contagious or infectious disease if the person assaults a person by exchanging or attempting to exchange bodily fluids, and providing a penalty.

**House File 781**, an Act relating to the establishment of a direct care worker task force.

**House File 789**, an Act relating to programs and functions under the purview of the Iowa Department of Public Health.

**House File 839**, an Act providing for the establishment of a technology governance board within the Department of Administrative Service, and making an appropriation.

The above House Files are hereby approved this date.

Sincerely,



Thomas J. Vilsack  
Governor

TJV:jmc

cc: Secretary of the Senate  
Chief Clerk of the House



HOUSE FILE 737

AN ACT

RELATING TO THE REGISTRATION AND LICENSING OF MORTGAGE BANKERS AND BROKERS, PROVIDING FOR FEES, AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 535B.1, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. "Individual registrant" means a natural person who is registered or who is required to be registered under section 535B.4A.

Sec. 2. Section 535B.1, subsection 4, Code 2005, is amended to read as follows:

4. "Mortgage banker" means a person who does one or more of the following:

a. Makes at least four first mortgage loans on residential real property located in this state in a calendar year.

b. Originates at least four first mortgage loans on residential real property located in this state in a calendar year and sells four or more such loans in the secondary market.

c. Services at least four first mortgage loans on residential real property located in this state. However, a natural person, who services less than fifteen first mortgage loans on residential real estate within the state and who does not sell or transfer first mortgage loans, is exempt from this paragraph if that person is otherwise exempt from the provisions of this chapter.

"Mortgage banker" does not include a person whose job responsibilities on behalf of a licensee or individual registrant are to process mortgage loans, are solely clerical

in nature, or otherwise do not involve direct contact with loan applicants.

Sec. 3. Section 535B.1, subsection 5, Code 2005, is amended to read as follows:

5. "Mortgage broker" means a person who arranges or negotiates, or attempts to arrange or negotiate, at least four first mortgage loans or commitments for four or more such loans on residential real property located in this state in a calendar year. "Mortgage broker" does not include a person whose job responsibilities on behalf of a licensee or individual registrant are to process mortgage loans, are solely clerical in nature, or otherwise do not involve direct contact with loan applicants.

Sec. 4. Section 535B.2, Code 2005, is amended to read as follows:

535B.2 EXEMPTIONS.

This chapter, except for sections 535B.3, 535B.11, 535B.12, and 535B.13, does not apply to any of the following:

1. A national bank, bank holding company, savings bank, savings and loan association, or credit union organized under the laws of this state, another state, or the United States, or a subsidiary or affiliate of such a bank, bank holding company, savings bank, savings and loan association, or credit union.

~~2--A-federally-chartered-savings-and-loan-association-~~

~~3--A-federally-chartered-savings-bank-~~

~~4--A-federally-chartered-credit-union-~~

5. 2. A loan company licensed under chapter 536 or 536A.

~~6--A-bank-organized-under-chapter-524-~~

~~7--A-savings-and-loan-association-or-savings-bank organized-under-chapter-534-~~

~~8--A-credit-union-organized-under-chapter-533-~~

9. 3. An insurance company or a subsidiary or affiliate of an insurance company organized under the laws of this state, another state, or the United States, and subject to regulation by the commissioner of insurance.

~~10--A-wholly-owned-subsiidiary-of-an-organization-listed-in subsections-1-through-9-if-the-listed-organization-has-its principal-place-of-business-in-Iowa-~~

~~11--A-bank, savings-and-loan-association, credit-union, or insurance-company-organized-or-chartered-under-the-laws-of-any other-state, provided-the-financial-institution-or-insurance company-has-a-place-of-business-in-Iowa-or-in-a-county-of another-state-if-that-county-is-contiguous-to-an-Iowa-border-~~

~~12-~~ 4. Mortgage lenders or mortgage bankers maintaining an office in this state whose principal business in this state is conducted with or through mortgage lenders or mortgage bankers otherwise exempt under this section and which maintain a place of business in this state.

5. An insurance producer licensed under chapter 522B.

6. An individual who is employed by a person otherwise exempt under this section, or who is under an exclusive contract with a person otherwise exempt under this section to the extent that the individual is acting within the scope of the individual's employment or exclusive contract with the exempt person and is acting within the scope of the exempt person's charter, license, authority, approval, or certificate.

7. A real estate broker licensed under chapter 543B.

~~13-~~ 8. A nonprofit organization qualifying for tax-exempt status under the Internal Revenue Code as defined in section 422.3 which offers housing services to low and moderate income families.

Sec. 5. Section 535B.3, subsections 1 and 3, Code 2005, are amended to read as follows:

1. A person exempt under section 535B.2, subsection ~~10-~~  
~~11-~~~~12-~~~~or-13~~ 4 or 8, shall register with the administrator.

3. The registrant, except a nonprofit organization exempt under section 535B.2, subsection ~~13~~ 8, shall pay an annual registration fee of one hundred dollars.

Sec. 6. NEW SECTION. 535B.4A INDIVIDUAL REGISTRATION REQUIREMENTS -- FEES.

1. A natural person who is a mortgage banker or mortgage broker and who is employed by, under contract with, or is an agent of a licensee under section 535B.4 shall register annually with the administrator. The administrator shall collect registration fees necessary to cover the costs associated with the annual registrations made pursuant to this section.

2. An individual registrant who registers pursuant to this section for the first time shall submit to a criminal background check prior to being registered. The administrator shall collect fees necessary to cover the costs associated with criminal background checks conducted pursuant to this section.

3. A person shall not be eligible for licensing pursuant to section 535B.4 unless all individual registrants employed

by, under contract with, or who are agents of the person have successfully completed the registration and criminal background check required by this section.

4. The registration of an individual registrant pursuant to this section is not assignable.

5. The registration of an individual registrant pursuant to this section expires on June 30 following the date of registration.

6. An individual registrant who fails to comply with the requirements of section 535B.9A shall not be registered or the registration of the individual registrant may be suspended or revoked by the administrator.

Sec. 7. Section 535B.9, subsection 1, Code 2005, is amended to read as follows:

1. An applicant for a license shall file with the administrator a bond furnished by a surety company authorized to do business in this state. The bond shall be in the amount of ~~fifteen~~ twenty-five thousand dollars for an applicant seeking to transact business solely as a mortgage broker, or ~~thirty~~ fifty thousand dollars for an applicant seeking to transact business as a mortgage banker. The bond shall be continuous in nature until canceled by the surety with not less than thirty days' notice in writing to the mortgage broker or mortgage banker and to the administrator indicating the surety's intention to cancel the bond on a specific date. The bond shall be for the use of the state and any persons who may have causes of action against the applicant. The bond shall be conditioned upon the applicant's faithfully conforming to and abiding by this chapter and any rules adopted under this chapter and shall require that the surety pay to the state and to any persons all moneys that become due or owing to the state and to the persons from the applicant by virtue of this chapter.

Sec. 8. NEW SECTION. 535B.9A CONTINUING EDUCATION REQUIREMENTS.

1. All individual registrants shall complete twelve hours of continuing education or training each year. The administrator shall establish an annual deadline for the completion of such continuing education or training.

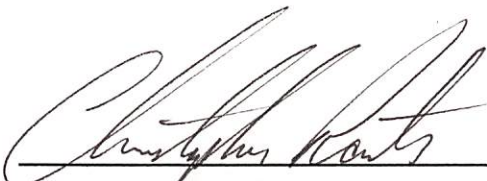
2. Continuing education or training shall not be offered to individual registrants until the curriculum of the continuing education or training has been approved by the administrator.


3. Each individual registrant shall annually provide the administrator with proof of the individual registrant's compliance with the requirements of this section.

Sec. 9. Section 558.70, subsection 4, Code 2005, is amended to read as follows:

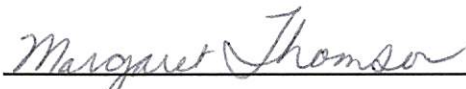
4. This section applies to a contract seller who entered into four or more residential real estate contracts in the three hundred sixty-five days previous to the contract seller signing the contract disclosure statement. For purposes of this subsection, two or more entities sharing a common owner or manager are considered a single contract seller. This section does not apply to an organization listed in section 535B.2, subsections 1 through ~~12~~ 7.

Sec. 10. EFFECTIVE DATE. The provisions of this Act take effect July 1, 2006.

  
CHRISTOPHER C. RANTS  
Speaker of the House

  
JOHN P. KIBBIE  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 737, Eighty-first General Assembly.

  
MARGARET THOMSON  
Chief Clerk of the House

Approved April 29, 2005

  
THOMAS J. VILSACK  
Governor