WEST VIRGINIA CODE: §31-17-2

§31-17-2. License required for lender and broker originator; exemptions.

(a) A person may not engage in this state in the business of lender or broker unless and until he or she first obtains a license to do so from the commissioner, which license remains unexpired, unsuspended and unrevoked, and no foreign corporation may engage in business in this state unless it is registered with the Secretary of State to transact business in this state.

(b) All mortgage loan originators, as that term is defined by section two, article seventeen-a of this chapter, shall obtain a mortgage loan originator license pursuant to said article.

(c) Brokerage fees, additional charges and finance charges imposed by licensed mortgage brokers, lenders and loan originators are exempt from the tax imposed by article fifteen, chapter eleven of this code beginning on January 1, 2004.

(d) The provisions of this article do not apply to loans made by the following:

(1) Federally insured depository institutions;

(2) Regulated consumer lender licensees;

(3) Insurance companies;

(4) Any agency or instrumentality of this state, federal, county or municipal government or on behalf of the agency or instrumentality;

(5) By a nonprofit community development organization making mortgage loans to promote home ownership or improvements for the disadvantaged which loans are subject to federal, state, county or municipal government supervision and oversight; or

(6) Habitat for Humanity International, Inc., and its affiliates providing low-income housing within this state. Loans made subject to this exemption may be assigned, transferred, sold or otherwise securitized to any person and shall remain exempt from the provisions of this article, except as to reporting requirements in the discretion of the commissioner where the person is a licensee under this article. Nothing herein shall prohibit a broker licensed under this article from acting as broker of an exempt loan and receiving compensation as permitted under the provisions of this article.

(e) The provisions of this article do not apply to loans brokered by a federally insured depository institution.

(f) A person or entity designated in subsection (d) of this section may take assignments of a primary or subordinate mortgage loan from a licensed lender and the assignments of said

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loans that they themselves could have lawfully made as exempt from the provisions of this article under this section do not make that person or entity subject to the licensing, bonding, reporting or other provisions of this article except as the defense or claim would be preserved pursuant to section one hundred two, article two, chapter forty-six-a of this code.

(g) The placement or sale for securitization of a primary or subordinate mortgage loan into a secondary market by a licensee may not subject the warehouser or final securitization holder or trustee to the provisions of this article: Provided, That the warehouser, final securitization holder or trustee under an arrangement is either a licensee or person or entity entitled to make exempt loans of that type under this section, or the loan is held with right of recourse to a licensee.

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