

HOUSE No. 1059

By Mr. Quinn of Dartmouth, petition of John F. Quinn relative to mortgage lenders and mortgage brokers. Financial Services.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO MORTGAGE LENDERS AND MORTGAGE BROKERS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 255E of the General Laws, as so appearing, is hereby
2 amended by striking out section 2 and inserting in place thereof the
3 following section:—
4 Section 2. No person shall act as a mortgage broker or mortgage
5 lender with respect to residential property unless first obtaining a
6 license from the commissioner. The provisions of this chapter shall
7 not apply to any mortgage lender making fewer than five mortgage
8 loans within any period of twelve consecutive months; provided,
9 however, that in computing the number of mortgage loans, there
10 shall be counted in the loans of more than one partnership, associa-
11 tion, trust or corporation, the majority interest of which are owned or
12 controlled directly or indirectly by the same person or persons, part-
13 nerships, associations, trusts or corporations and including in the
14 loans of a partnership or company not incorporated the loans of the
15 several members thereof. The provisions of this chapter shall not
16 apply to any person who acts as a mortgage broker fewer than five
17 times within any period of twelve consecutive months. The provi-
18 sions of this chapter shall not apply to a bank as defined in section
19 one of chapter one hundred and sixty-seven, a national banking asso-
20 ciation, a federally chartered credit union, a federal savings and loan
21 association, a federal savings bank, or any subsidiary or affiliate of
22 the above, insurance company, or to any bank, trust company, sav-
23 ings bank, savings and loan association, credit union or insurance
24 company organized under the laws of any other state; provided,

25 however, that except as provided herein, such provisions shall apply
26 to any subsidiary or affiliate, as defined by the commissioner, of any
27 such exempted entity and of a bank holding company established in
28 accordance with state or federal law; and provided, further, that such
29 provisions shall not apply to any instrumentality created by the
30 United States or any state or to any nonprofit, public or independent
31 post-secondary educational institution within the commonwealth
32 authorized by law to grant degrees by the commonwealth, or by any
33 agency or instrumentality thereof, for mortgage loans made by any
34 such educational institution to its faculty or staff, or to any charitable
35 organization originally created by a last will and testament before
36 January first, nineteen hundred and fifty which makes no more than
37 twelve mortgage loans during a twelve month period or to a real
38 estate broker or real estate salesman as defined in section eighty-
39 seven PP of chapter one hundred and twelve who, in connection
40 with services performed in a prospective real estate transaction, pro-
41 vides mortgage information or assistance to a buyer if such real
42 estate broker or real estate salesman is not compensated for the same
43 in addition to the compensation received from the seller for such real
44 estate services. The commissioner may adopt, amend, or repeal rules
45 and regulations, which may include an adequate capitalization
46 requirement for mortgage lenders, to aid in the administration and
47 enforcement of this chapter.