

House Engrossed Senate Bill
mortgage brokers; bankers; qualifications

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

CHAPTER 172
SENATE BILL 1204

AN ACT

AMENDING SECTION 6-901, ARIZONA REVISED STATUTES; AMENDING TITLE 6, CHAPTER 9, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 6-902.01; AMENDING SECTIONS 6-903, 6-941, 6-971 AND 6-976, ARIZONA REVISED STATUTES; RELATING TO MORTGAGE BROKER AND BANKER LICENSING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 6-901, Arizona Revised Statutes, is amended to
3 read:

4 6-901. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Affiliate" means an entity which directly or indirectly,
7 through one or more intermediaries, controls, is controlled by or is under
8 common control with the entity specified.

9 2. "Commercial mortgage broker" means a person who for compensation
10 or in the expectation of compensation either directly or indirectly makes,
11 negotiates or offers to make or negotiate a commercial mortgage loan.

12 3. "Commercial mortgage loan" means a loan that is directly or
13 indirectly secured by a mortgage or deed of trust or any lien interest on
14 commercial property and that is created with the consent of the owner of
15 the commercial property.

16 4. "Commercial property" means real property that is not a
17 residential dwelling of one to four units.

18 5. "Compensation" means anything of value or any benefit, including
19 points, commissions, bonuses, referral fees, loan origination fees and
20 other similar fees but excluding periodic interest resulting from the
21 application of the note rate of interest to the outstanding principal
22 balance remaining unpaid from time to time.

23 6. "Continuing education unit" means a fifty minute period of time
24 in a continuing education course that relates to the mortgage industry or
25 to mortgage transactions, including courses taken to maintain recognized
26 industry designations.

27 7. "GENERALLY ACCEPTED ACCOUNTING PRINCIPLES" MEANS UNITED STATES
28 GENERALLY ACCEPTED ACCOUNTING PRINCIPLES ISSUED BY THE FINANCIAL
29 ACCOUNTING STANDARDS BOARD OR THE INTERNATIONAL FINANCIAL REPORTING
30 STANDARDS ISSUED BY THE INTERNATIONAL ACCOUNTING STANDARDS BOARD.

31 ~~7.~~ 8. "Investor" means a person who lends or invests money in
32 mortgage loans.

33 ~~8.~~ 9. "License" means a license issued under this article.

34 ~~9.~~ 10. "Licensee" means a person licensed under this article.

35 ~~10.~~ 11. "Loan originator" has the same meaning prescribed in
36 section 6-991.

37 ~~11.~~ 12. "Mortgage broker" means a person who is not exempt under
38 section 6-902 and who for compensation or in the expectation of
39 compensation either directly or indirectly makes, negotiates or offers to
40 make or negotiate a mortgage loan.

41 ~~12.~~ 13. "Mortgage loan" means a loan secured by a mortgage or deed
42 of trust or any lien interest on real estate located in this state created
43 with the consent of the owner of the real estate.

44 ~~13.~~ 14. "Mortgage loan closing" means the day by which all
45 documents relating to the mortgage loan have been executed and recorded

1 and all monies have been accounted for under the terms of the escrow
2 instructions.

3 ~~14.~~ 15. "Residential mortgage loan" means a mortgage loan that has
4 security in the form of a residential dwelling of one to four units.

5 Sec. 2. Title 6, chapter 9, article 1, Arizona Revised Statutes, is
6 amended by adding section 6-902.01, to read:

7 6-902.01. Exemption; responsible individual

8 A. A PARENT COMPANY MAY APPLY FOR AND BE GRANTED A CERTIFICATE OF
9 EXEMPTION ON BEHALF OF AN ENTITY THAT ALLOWS A RESPONSIBLE INDIVIDUAL, AS
10 PRESCRIBED IN SECTION 6-903, SUBSECTION H, TO RESIDE OUT OF STATE IF THE
11 RESPONSIBLE INDIVIDUAL MEETS THE FOLLOWING CRITERIA:

- 12 1. IS A NATURAL PERSON.
- 13 2. MEETS ALL OF THE REQUIREMENTS PURSUANT TO THIS ARTICLE.
- 14 3. RECEIVES NOTIFICATION FROM THE PARENT COMPANY THAT THE PARENT
15 COMPANY WAS GRANTED A CERTIFICATE OF EXEMPTION BY THE DIRECTOR.

16 B. THE PARENT COMPANY MUST APPLY ON BEHALF OF THE ENTITY AND SUBMIT
17 AN ATTESTATION FORM AS PRESCRIBED BY THE DIRECTOR THAT THE PARENT COMPANY
18 MEETS ALL OF THE FOLLOWING REQUIREMENTS:

- 19 1. MAINTAINS A PHYSICAL PRESENCE IN THIS STATE.
- 20 2. DOES NOT HAVE ANY DISCIPLINARY ACTIONS BY THE DEPARTMENT.
- 21 3. HAS A CLASS OF SECURITIES REGISTERED WITH THE UNITED STATES
22 SECURITIES AND EXCHANGE COMMISSION.

23 C. THE APPLICANT SHALL PAY ALL APPLICABLE FEES AS PRESCRIBED IN
24 RULE.

25 D. THE DIRECTOR MAY REVOKE THE CERTIFICATE IF THE DIRECTOR FINDS
26 EITHER OF THE FOLLOWING:

- 27 1. THE INTERESTS OF THE CONSUMER ARE NOT MET.
- 28 2. THE REQUIREMENTS OF THE RESPONSIBLE INDIVIDUAL PRESCRIBED BY
29 THIS SECTION ARE NOT MET.

30 E. THE DURATION OF THE CERTIFICATE OF EXEMPTION IS CONTINUOUS
31 DURING THE LICENSE PERIOD UNLESS THE CERTIFICATE OF EXEMPTION IS REVOKED
32 PURSUANT TO THIS SECTION.

33 F. IF THE DIRECTOR DENIES THE APPLICATION FOR OR REVOKES A
34 CERTIFICATE OF EXEMPTION, THE DIRECTOR SHALL ISSUE AN ORDER OUTLINING THE
35 FINDINGS OF FACT, CONCLUSIONS OF LAW AND REASONS FOR THE DENIAL OR
36 REVOCATION. THE APPLICANT HAS A RIGHT TO A HEARING PURSUANT TO TITLE 41,
37 CHAPTER 6, ARTICLE 10.

38 G. THE DIRECTOR MAY PRESCRIBE RULES TO CARRY OUT THIS SECTION.

39 Sec. 3. Section 6-903, Arizona Revised Statutes, is amended to
40 read:

41 6-903. Licensing of mortgage brokers required;
42 qualifications; application; bond; fees; renewal

43 A. A person shall not act as a mortgage broker if the person is not
44 licensed under this article. A person who brokers only commercial
45 mortgage loans shall obtain either a mortgage broker license or a

1 commercial mortgage broker license. A person who brokers residential
2 mortgage loans shall obtain a mortgage broker license.

3 B. The deputy director shall not grant a mortgage broker's license
4 or a commercial mortgage broker's license to a person, other than a
5 natural person, who is not registered to do business in this state on the
6 date of granting the license.

7 C. An applicant for an original mortgage broker's license shall:

8 1. Have not less than three years' experience as a mortgage broker
9 or loan originator or equivalent lending experience in a related business
10 during the five years immediately preceding the time of application.

11 2. Have satisfactorily completed a course of study approved by the
12 deputy director during the three years immediately preceding the time of
13 application.

14 3. Have passed a mortgage broker's test, pursuant to section 6-908.

15 D. An applicant for an original commercial mortgage broker's
16 license shall:

17 1. Have not less than three years' experience in the commercial
18 mortgage broker business or equivalent lending experience in a related
19 business during the five years immediately preceding the time of
20 application.

21 2. Have made in the past or intend to make or negotiate or offer to
22 make or negotiate commercial mortgage loans.

23 3. Provide the deputy director with the following:

24 (a) A balance sheet prepared within the immediately preceding six
25 months and certified by the licensee. The deputy director may require a
26 more recent balance sheet.

27 (b) If the applicant has begun operations, a statement of
28 operations and retained earnings and a statement of changes in financial
29 position.

30 (c) Notes to the financial statement if applicable.

31 E. Notwithstanding subsection D, paragraph 3 of this section,
32 commercial mortgage broker licensees and commercial mortgage broker
33 license applicants whose own resources are derived exclusively from
34 correspondent contracts with institutional investors shall provide the
35 deputy director with a current financial statement or that of its parent
36 company prepared according to generally accepted accounting principles,
37 including:

38 1. A balance sheet prepared within the immediately preceding six
39 months and certified by the licensee. The deputy director may require a
40 more recent balance sheet.

41 2. If the applicant has begun operations, a statement of operations
42 and retained earnings and a statement of changes in financial position.

43 3. Notes to the financial statement if applicable.

1 F. A person shall ~~make an application~~ APPLY for a license or for a
2 renewal of a license in writing on the forms, in the manner and
3 accompanied by the information prescribed by the deputy director. The
4 deputy director may require additional information on the experience,
5 background, honesty, truthfulness, integrity and competency of the
6 applicant and any responsible individual designated by the applicant. If
7 the applicant is a person other than a natural person, the deputy director
8 may require information as to the honesty, truthfulness, integrity and
9 competency of any officer, director, shareholder or other interested party
10 of the association, corporation or group.

11 G. The nonrefundable application fee and annual renewal fee are as
12 prescribed in section 6-126. The nonrefundable application fee shall
13 accompany each application for an original license only. The deputy
14 director shall deposit, pursuant to sections 35-146 and 35-147, the monies
15 in the state general fund.

16 H. If a licensee is a person other than a natural person, the
17 license issued to it entitles all officers, directors, members, partners,
18 trustees and employees of the licensed corporation, partnership,
19 association or trust to engage in the mortgage business if one officer,
20 director, member, partner, employee or trustee of the person OR AN
21 EMPLOYEE OF AN AFFILIATED ENTITY OR THE PARENT COMPANY OF THE LICENSEE is
22 designated in the license as the individual responsible for the person
23 under this article. If a licensee is a natural person, the license
24 entitles all employees of the licensee to engage in the mortgage
25 business. If the natural person is not a resident of this state, an
26 employee of the licensee shall be designated in the license as the
27 individual responsible for the licensee under ~~the provisions of~~ this
28 article. For the purposes of this subsection, an employee does not
29 include an independent contractor. ~~★~~ THE responsible individual shall be
30 a resident of this state UNLESS THE DIRECTOR GRANTS AN EXEMPTION PURSUANT
31 TO SECTION 6-902.01, shall be in active management of the activities of
32 the licensee governed by this article and shall meet the qualifications
33 set forth in subsection C or D of this section for a licensee.

34 I. A licensee shall notify the deputy director that its responsible
35 individual will cease to be in active management of the activities of the
36 licensee within ten days after learning that fact. The licensee has
37 ninety days after the notification is received by the deputy director
38 within which to replace the responsible individual with a qualified
39 replacement and to so notify the deputy director. If the license is not
40 placed under active management of a qualified responsible individual and
41 if notice is not given to the deputy director within the ninety-day
42 period, the license of the licensee expires.

43 J. Every person licensed as a mortgage broker or a commercial
44 mortgage broker shall deposit with the deputy director, before doing
45 business as a mortgage broker or a commercial mortgage broker, a bond

1 executed by the licensee as principal and a surety company authorized to
2 do business in this state as surety. The bond shall be conditioned on the
3 faithful compliance of the licensee, including the licensee's directors,
4 officers, members, partners, trustees and employees, with this
5 article. The bond is payable to any person injured by the wrongful act,
6 default, fraud or misrepresentation of the licensee or the licensee's
7 employees and to this state for the benefit of the person injured. Only
8 one bond is required for any person, firm, association or corporation
9 irrespective of the number of officers, directors, members, partners or
10 trustees who are employed by or are members of such firm, association or
11 corporation. ~~No~~ A suit may NOT be commenced on the bond after the
12 expiration of one year following the commission of the act on which the
13 suit is based, except that claims for fraud or mistake are limited to the
14 limitation period provided in section 12-543, paragraph 3. If an injured
15 person commences an action for a judgment to collect from the bond, the
16 injured person shall notify the deputy director of the action in writing
17 at the time of the commencement of the action and shall provide copies of
18 all documents relating to the action to the deputy director on request.

19 K. The bond required by this section ~~shall be~~ IS \$10,000 for
20 licensees whose investors are limited solely to institutional
21 investors, ~~and~~ \$15,000 for licensees whose investors include any
22 noninstitutional investors.

23 L. For the purposes of subsection K of this section:

24 1. "Institutional investor" means a state or national bank, a state
25 or federal savings and loan association, a state or federal savings bank,
26 a state or federal credit union, a federal government agency or
27 instrumentality, a quasi-federal government agency, a financial
28 enterprise, a licensed real estate broker or salesman, a profit sharing or
29 pension trust, or an insurance company.

30 2. "Investor" means any person who directly or indirectly provides
31 to a mortgage broker funds that are, or are intended to be, used in ~~the~~
32 making ~~of~~ a loan, ~~and~~ any person who purchases a loan, or any interest
33 therein, from a mortgage broker or in a transaction that has been directly
34 or indirectly arranged or negotiated by a mortgage broker.

35 M. Notwithstanding section 35-155, in lieu of the bond described in
36 this section, an applicant for a license or a licensee may deposit with
37 the deputy director a deposit in the form of cash or alternatives to cash
38 in the same amount as the bond required under subsection J of this
39 section. The deputy director may accept any of the following as an
40 alternative to cash:

41 1. Certificates of deposits or investment certificates that are
42 payable or assigned to the state treasurer, issued by banks or savings
43 banks doing business in this state and fully insured by the federal
44 deposit insurance corporation or any successor institution.

1 2. Certificates of deposit, investment certificates or share
2 accounts that are payable or assigned to the state treasurer, issued by a
3 savings and loan association doing business in this state and fully
4 insured by the federal deposit insurance corporation or any successor
5 institution.

6 3. Certificates of deposit, investment certificates or share
7 accounts that are payable or assigned to the state treasurer, issued by a
8 credit union doing business in this state and fully insured by the
9 national credit union administration or any successor institution.

10 N. The deputy director shall deposit the cash or alternatives to
11 cash received under this section with the state treasurer. The state
12 treasurer shall hold the cash or alternatives to cash in the name of this
13 state to guarantee the faithful performance of all legal obligations of
14 the person required to post bond pursuant to this section. The person is
15 entitled to receive any accrued interest earned from the alternatives to
16 cash. The state treasurer may impose a fee to reimburse the state
17 treasurer for administrative expenses. The fee shall not exceed \$10 for
18 each cash or alternatives to cash deposit and shall be paid by the
19 applicant or licensee. The state treasurer may prescribe rules relating
20 to the terms and conditions of each type of security provided by this
21 section.

22 O. In addition to such other terms and conditions as the deputy
23 director prescribes by rule or order, the principal amount of the deposit
24 shall be released only on written authorization of the deputy director or
25 on the order of a court of competent jurisdiction. The principal amount
26 of the deposit shall not be released before the expiration of three years
27 from the first to occur of any of the following:

- 28 1. The date of substitution of a bond for a cash alternative.
- 29 2. The surrender of the license.
- 30 3. The revocation of the license.
- 31 4. The expiration of the license.

32 P. A licensee or an employee of the licensee shall not advertise
33 for or solicit mortgage business in any manner without using the name and
34 license number as issued on the mortgage broker's principal place of
35 business license, except that a licensee may employ or refer to the
36 commonly used name and any trademarks or service marks of any affiliate.
37 If a license is issued in the name of a natural person, nothing in the
38 advertising or solicitation may imply the license is in the name of
39 another person or entity. For the purposes of this
40 subsection, ~~"advertise"~~ does not include business cards, radio and
41 television advertising directed at national or regional markets and
42 promotional items except if those items contain rates or terms on which a
43 mortgage loan may be obtained.

1 Q. A licensee shall not employ any person unless the licensee:
2 1. Conducts a reasonable investigation of the background, honesty,
3 truthfulness, integrity and competency of the employee before hiring.

4 2. Keeps a record of the investigation for not less than two years
5 after termination.

6 R. A license is not transferable or assignable and control of a
7 licensee may not be acquired through a stock purchase or other device
8 without the prior written consent of the deputy director. Written consent
9 shall not be given if the deputy director finds that any of the grounds
10 for denial, revocation or suspension of a license as set forth in section
11 6-905 are applicable to the acquiring person. For the purposes of this
12 subsection, "control" means the power to vote more than twenty percent of
13 outstanding voting shares of a licensed corporation, partnership,
14 association or trust.

15 S. The licensee is liable for any damage caused by any of the
16 licensee's employees while acting as an employee of the licensee.

17 T. A licensee shall comply with the requirements of section 6-114
18 relating to balloon payments.

19 U. The examination and course of study requirements of this section
20 shall be waived by the deputy director for any person applying for a
21 license who, within the six months immediately prior to the submission of
22 the application, has been a licensee or a responsible person pursuant to
23 this chapter.

24 V. If the applicant for renewal of a mortgage broker license is a
25 natural person, the applicant shall have satisfactorily completed twelve
26 continuing education units by a continuing education provider approved by
27 the deputy director before submitting the renewal application. If the
28 applicant is other than a natural person, the designated responsible
29 individual shall have satisfactorily completed twelve continuing education
30 units by a continuing education provider approved by the deputy director
31 before submitting the renewal application. An applicant for renewal of a
32 commercial mortgage broker license is not subject to the continuing
33 education requirements prescribed by this article.

34 W. A licensee who employs a loan originator shall comply with
35 section 6-991.03.

36 Sec. 4. Section 6-941, Arizona Revised Statutes, is amended to
37 read:

38 6-941. Definitions

39 In this article, unless the context otherwise requires:

40 1. "Affiliate" means an entity which directly or indirectly,
41 through one or more intermediaries, controls, is controlled by or is under
42 common control with the entity specified.

43 2. "Compensation" means anything of value or any benefit including
44 points, commissions, bonuses, referral fees, loan origination fees and
45 other similar fees but excluding periodic interest resulting from the

1 application of the note rate of interest to the outstanding principal
2 balance remaining unpaid from time to time.

3 3. "GENERALLY ACCEPTED ACCOUNTING PRINCIPLES" MEANS UNITED STATES
4 GENERALLY ACCEPTED ACCOUNTING PRINCIPLES ISSUED BY THE FINANCIAL
5 ACCOUNTING STANDARDS BOARD OR THE INTERNATIONAL FINANCIAL REPORTING
6 STANDARDS ISSUED BY THE INTERNATIONAL ACCOUNTING STANDARDS BOARD.

7 ~~3.~~ 4. "License" means a license issued under this article.

8 ~~4.~~ 5. "Licensee" means a person licensed under this article.

9 ~~5.~~ 6. "Mortgage banker" means a person who is not exempt under
10 section 6-942 and who for compensation or in the expectation of
11 compensation either directly or indirectly makes, negotiates or offers to
12 make or negotiate a mortgage banking loan or a mortgage loan.

13 ~~6.~~ 7. "Mortgage banking loan" means a loan which is funded
14 exclusively from the mortgage banker's own resources, which is directly or
15 indirectly secured by a mortgage or deed of trust or any lien interest on
16 real estate located in this state and which is created with the consent of
17 the owner of the real property. For the purposes of this paragraph, "own
18 resources" means any of the following:

19 (a) Cash, corporate capital, warehouse credit lines at commercial
20 banks, savings banks or savings and loan associations or other sources
21 that are liability items on the mortgage banker's financial statements for
22 which its assets are pledged.

23 (b) Correspondent contracts between the mortgage banker and a bank,
24 savings bank, trust company, savings and loan association, credit union,
25 profit sharing or pension trust, consumer lender or insurance company.

26 (c) The mortgage banker's affiliates' cash, corporate capital,
27 warehouse credit lines at commercial banks or other sources that are
28 liability items on the affiliates' financial statements for which the
29 affiliates' assets are pledged.

30 ~~7.~~ 8. "Mortgage banking loan closing" means the day by which all
31 documents relating to the mortgage banking loan or mortgage loan have been
32 executed and recorded and all monies have been accounted for.

33 ~~8.~~ 9. "Mortgage loan" means any loan, other than a mortgage
34 banking loan, secured by a mortgage or deed of trust or any lien interest
35 on real estate located in this state and created with the consent of the
36 owner of the real estate."

37 Sec. 5. Section 6-971, Arizona Revised Statutes, is amended to
38 read:

39 6-971. Definitions

40 In this article, unless the context otherwise requires:

41 1. "Affiliate" means an entity that directly or indirectly, through
42 one or more intermediaries, controls, is controlled by or is under common
43 control with the specified entity.

- 1 2. "Commercial mortgage banker" means a person who engages in the
2 following:
3 (a) Originating commercial mortgage loans.
4 (b) Servicing commercial mortgage loans.
5 (c) Either directly or indirectly making, negotiating or offering
6 to make or negotiate commercial mortgage loans.
7 3. "Commercial mortgage loan" means a loan that is directly or
8 indirectly secured by a mortgage or deed of trust or any lien interest on
9 commercial property and created with the consent of the owner of the
10 commercial property.
11 4. "Commercial mortgage loan closing" means the day by which all
12 documents relating to the commercial mortgage loan have been executed and
13 recorded and all monies have been accounted for under the terms of the
14 escrow instructions.
15 5. "Commercial property" means real estate that is located in this
16 state and that is not used for a one to four family residence.
17 6. "Compensation" means anything of value or any benefit including
18 points, commissions, bonuses, referral fees, loan origination fees and
19 other similar fees but excluding periodic interest resulting from the
20 application of the note rate of interest to the outstanding principal
21 balance remaining unpaid from time to time.
22 7. "GENERALLY ACCEPTED ACCOUNTING PRINCIPLES" MEANS UNITED STATES
23 GENERALLY ACCEPTED ACCOUNTING PRINCIPLES ISSUED BY THE FINANCIAL
24 ACCOUNTING STANDARDS BOARD OR THE INTERNATIONAL FINANCIAL REPORTING
25 STANDARDS ISSUED BY THE INTERNATIONAL ACCOUNTING STANDARDS BOARD.
26 ~~7.~~ 8. "Institutional investor" means a person who in the regular
27 course of business makes commercial mortgage loans of more than two
28 hundred fifty thousand dollars that are funded exclusively from the
29 institutional investor's own resources.
30 ~~8.~~ 9. "Investor" means a person who directly or indirectly
31 provides monies to a commercial mortgage banker that are, or are intended
32 to be, used to make a loan, and any person who purchases a loan, or any
33 interest in a loan, from a commercial mortgage banker or in a transaction
34 that has been directly or indirectly arranged or negotiated by a
35 commercial mortgage banker.
36 ~~9.~~ 10. "License" means a license issued under this article.
37 ~~10.~~ 11. "Licensee" means a person who is licensed under this
38 article.
39 ~~11.~~ 12. "Own resources" means any of the following:
40 (a) Cash, corporate capital, warehouse credit lines at commercial
41 banks, savings banks or savings and loan associations or other sources
42 that are liability items on the person's financial statements.

1 (b) Correspondent contracts between the commercial mortgage banker
2 and an institutional investor, bank, savings bank, trust company, savings
3 and loan association, credit union, profit sharing or pension trust,
4 consumer lender or insurance company.

5 (c) The person's affiliates' cash, corporate capital, warehouse
6 credit lines at commercial banks or other sources that are liability items
7 on the affiliates' financial statements for which the affiliates' assets
8 are pledged.

9 ~~12.~~ 13. "Servicing commercial mortgage loans" means collecting
10 payments at a location in this state on commercial mortgage loans,
11 including:

12 (a) Principal.

13 (b) Interest.

14 (c) Trust items such as hazard insurance premiums, taxes and
15 various reserves on an obligation under the terms of the obligation.

16 (d) Operational procedures covering accounting, bookkeeping,
17 insurance, tax records, loan payment follow-up, delinquency loan
18 follow-up, loan analysis and property valuation.

19 Sec. 6. Section 6-976, Arizona Revised Statutes, is amended to
20 read:

21 6-976. Responsible individual; employees

22 A. A license entitles the licensee and all officers, directors,
23 members, partners, trustees and employees of the licensee to engage in
24 commercial mortgage banking if one officer, director, member, partner,
25 employee or trustee of the person **OR AN EMPLOYEE OF AN AFFILIATED ENTITY**
26 **OR THE PARENT COMPANY OF THE LICENSEE** is designated in the license as the
27 individual responsible for the licensee under this article. If the
28 natural person is not a resident of this state, an employee of the
29 licensee shall be designated in the license as the individual responsible
30 for the licensee under this article. For **THE** purposes of this
31 subsection, ~~"employee"~~ does not include an independent contractor.

32 B. ~~THE~~ responsible individual ~~shall be a resident of this state,~~
33 shall be active in managing the activities of the licensee governed by
34 this article and shall meet the qualifications prescribed by section
35 6-973, subsection D, paragraph 1 for a licensee. A licensee shall notify
36 the deputy director that its responsible individual will cease to be
37 active in managing the activities of the licensee within ten days ~~of~~ **AFTER**
38 learning of that fact. Within ninety days after the notification is
39 received by the deputy director, the licensee shall replace the
40 responsible individual with a qualified replacement and notify the deputy
41 director. If the license is not placed under active management of a
42 qualified responsible individual and if notice is not given to the deputy
43 director within the ninety-day period, the license of the licensee
44 expires.

- 1 C. A licensee shall not employ any person unless the licensee:
- 2 1. Conducts a reasonable investigation of the background, honesty,
- 3 truthfulness, integrity and competency of the employee before hiring.
- 4 2. Keeps a record of the investigation for at least two years after
- 5 termination.
- 6 D. The licensee is liable for any damages caused by any employee
- 7 while acting as an employee of the licensee.

APPROVED BY THE GOVERNOR APRIL 22, 2022.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 22, 2022.