

1 **State of Arkansas**  
2 **80th General Assembly**  
3 **Regular Session, 1995**  
4 **By: Representative Cunningham**

# **A Bill**

**ACT 785 OF 1995**  
**HOUSE BILL 1875**

## **For An Act To Be Entitled**

8 "AN ACT TO AMEND ARKANSAS CODE 23-39-306 TO EXEMPT CERTAIN  
9 LOAN BROKERS FROM REGISTRATION AND FILING REQUIREMENTS;  
10 AND FOR OTHER PURPOSES."

### **Subtitle**

14 "AN ACT TO EXEMPT CERTAIN LOAN BROKERS  
15 FROM REGISTRATION AND FILING  
16 REQUIREMENTS."

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

21 SECTION 1. Arkansas Code 23-39-306 is amended to read as follows:

22 "23-39-306. Exemptions from registration, bond, and net worth  
23 requirements.

24 (a) The following shall be exempt from registration, bond, and net  
25 worth under this chapter:

26 (1) Any Arkansas or federally chartered bank, savings bank, trust  
27 company, savings and loan association, credit union, industrial loan company,  
28 insurance company, small business investment corporation licensed pursuant to  
29 the Small Business Investment Act of 1958, as amended, or real estate  
30 investment trust as defined in 26 U.S.C. § 856, or any direct, wholly owned  
31 subsidiary of one of these organizations;

32 (2) An attorney at law rendering services in the performance of  
33 his duties as an attorney at law;

34 (3) (A) *An Arkansas licensed real estate broker rendering services*  
35 *in the performance of his duties as a real estate broker who obtains financing*  
36 *for a real estate transaction if:*

1 (i) The real estate broker does not act as a loan  
2 broker in more than five (5) transactions during any twelve month period;

3 (ii) If he does not receive a fee for his activities  
4 as a loan broker until after financing is actually obtained; and

5 (iii) If he files with the commissioner, within  
6 thirty (30) days of each transaction, a disclosure statement describing the  
7 transaction, which statement shall contain any information which the  
8 commissioner by rule or order may require.

9 (B) An Arkansas licensed real estate broker rendering  
10 services in the performance of his duties as a real estate broker who acts as  
11 a loan broker and who receives a fee for obtaining financing in six (6) or  
12 more real estate transactions in any twelve month period must register under  
13 this chapter but is exempt from the net worth requirements herein;

14 (4) Any mortgage loan company which is subject to licensing,  
15 supervision, or auditing by the Federal National Mortgage Association, the  
16 United States Department of Veterans Affairs, or the Government National  
17 Mortgage Association, or the United States Department of Housing and Urban  
18 Development as an approved seller or servicer. However, the mortgage loan  
19 company shall submit an annual audited financial statement of its books and  
20 records accompanied by an opinion acceptable to the commissioner. The audit  
21 shall be filed with the commissioner within ninety (90) days of the close of  
22 its fiscal year;

23 (5) Any person doing any act under order of any court;

24 (6) Any one (1) natural person, or husband or wife, who provides  
25 funds for investment in loans secured by a lien on real property, on his own  
26 account, who does not charge a fee or cause a fee to be paid for any service  
27 other than the normal and scheduled rates for escrow, title insurance, and  
28 recording services and who does not collect funds to be used for the payment  
29 of any taxes or insurance premiums on the property securing the loans;

30 (7) Any person doing business under the laws of this state or the  
31 United States relating to any broker-dealer, agent, or investment adviser duly  
32 registered with the State Securities Department;

33 (8) The United States, the State of Arkansas or any other state,  
34 any Arkansas city, county, or other political subdivision, and any agency,  
35 division, or corporate instrumentality of any of the foregoing;

1           (9) Any person, or wholly owned subsidiary thereof, who makes  
2 sales of real property which that person owns and who makes purchase money  
3 loans to the purchasers of the real property, which loans are secured by a  
4 lien or mortgage on that real property provided that no funds for the payment  
5 of insurance and taxes on the real property are held by the maker of the liens  
6 or mortgages and that the maker of the liens or mortgages does not sell the  
7 liens or mortgages in the secondary market other than to affiliated or  
8 subsidiary persons;

9           (10) Any agricultural loan organization which is subject to  
10 licensing, supervision, or auditing of the United States Agricultural  
11 Stabilization and Conservation Service, Commodity Credit Corporation, Farmers  
12 Home Administration, Farm Credit Administration, or the United States  
13 Department of Agriculture;

14           (11) Any loan broker who does not receive a fee or other  
15 consideration other than from the lender after financing is actually obtained,  
16 if the lender is registered or exempted from registration pursuant to the  
17 provisions of this subchapter.

18           (b)(1) Any person doing business in the state under the exemption set  
19 forth in subdivision (a)(4) of this section shall file proof of the exemption  
20 in such form as the commissioner may prescribe, together with a filing fee of  
21 one hundred dollars (\$100.00).

22           (2) The filing fee for each annual audited financial statement  
23 which is filed pursuant to subdivision (a)(4) of this section shall be fifty  
24 dollars (\$50.00)."

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26           SECTION 2. All provisions of this act of a general and permanent  
27 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
28 Code Revision Commission shall incorporate the same in the Code.

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30           SECTION 3. If any provision of this act or the application thereof to  
31 any person or circumstance is held invalid, such invalidity shall not affect  
32 other provisions or applications of the act which can be given effect without  
33 the invalid provision or application, and to this end the provisions of this  
34 act are declared to be severable.

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1 SECTION 4. All laws and parts of laws in conflict with this act are  
2 hereby repealed.

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4 SECTION 5. EMERGENCY. It is found and determined by the General  
5 Assembly of the State of Arkansas that changing financing relationships in the  
6 marketplace render an undue burden to many Arkansas businesses who otherwise  
7 would be subjected to the registration, bond and net worth requirements of the  
8 Mortgage Loan Company and Loan Broker Act of 1977, and further that the  
9 exemption filing requirements should be made more practical and realistic, and  
10 that this act will remove those unnecessary burdens while still providing  
11 adequate protection to the public. Therefore, an emergency is hereby declared  
12 to exist and this act being necessary for the immediate preservation of the  
13 public peace, health and safety shall be in full force and effect from and  
14 after its passage and approval.

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18 /s/Rep. Cunningham

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20 APPROVED: 3-24-95

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