

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas  
2 81st General Assembly  
3 Regular Session, 1997

# A Bill

HOUSE BILL 1427

4  
5 By: Representative Beatty  
6 By: Senator Webb

## For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE 23-39-306 TO DELETE THE  
10 EXEMPTION FROM THE REGISTRATION, BOND, AND NET WORTH  
11 REQUIREMENTS UNDER THE MORTGAGE LOAN COMPANY AND LOAN  
12 BROKER ACT FOR MORTGAGE COMPANIES SUBJECT TO LICENSING,  
13 SUPERVISION, OR AUDITING BY THE UNITED STATES DEPARTMENT  
14 OF VETERANS AFFAIRS; AND FOR OTHER PURPOSES."

## Subtitle

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17 "DELETES EXEMPTION FROM THE  
18 REGISTRATION, BOND, AND NET WORTH  
19 REQUIREMENTS UNDER THE MORTGAGE LOAN  
20 COMPANY AND LOAN BROKER ACT FOR MORTGAGE  
21 COMPANIES REGULATED BY U.S DEPT. OF  
22 VETERANS AFFAIRS."

23  
24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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26 SECTION 1. Arkansas Code 23-306(a) is amended to read as follows:

27 "(a) The following shall be exempt from registration, bond, and net  
28 worth under this chapter:

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

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

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

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

6 (ii) He does not receive a fee for his activities as  
 7 a loan broker until after financing is actually obtained; and

8 (iii) He files with the commissioner, within thirty  
 9 (30) days of each transaction, a disclosure statement describing the  
 10 transaction, which statement shall contain any information which the  
 11 commissioner by rule or order may require.

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

17 (4) Any mortgage loan company which is subject to licensing,  
 18 supervision, or auditing by the Federal National Mortgage Association, ~~the~~  
 19 ~~United States Department of Veterans Affairs, or~~ the Government National  
 20 Mortgage Association, or the United States Department of Housing and Urban  
 21 Development as an approved seller or servicer. However, the mortgage loan  
 22 company shall submit an annual audited financial statement of its books and  
 23 records accompanied by an opinion acceptable to the commissioner. The audit  
 24 shall be filed with the commissioner within ninety (90) days of the close of  
 25 its fiscal year. Any mortgage loan company licensed with the United States  
 26 Department of Veterans Affairs on or before July 1, 1997, shall be exempt from  
 27 the registration, bond, and net worth requirements of this chapter so long as  
 28 that mortgage loan company remains so licensed and is otherwise in compliance  
 29 with the provisions of this chapter ;

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

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

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

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

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

15           (10) Any agricultural loan organization which is subject to  
 16 licensing, supervision, or auditing by the United States Agricultural  
 17 Stabilization and Conservation Service, Commodity Credit Corporation, Farmers  
 18 Home Administration, Farm Credit Administration, or the United States  
 19 Department of Agriculture;

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

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

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

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