

Subject Nonbank Mortgage Servicers

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Overview

This bill applies financial condition and corporate governance requirements to nonbank mortgage servicers.

Summary

Section	Description
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1	<p>[58.20] Definitions.</p> <p>Subd. 1. Scope. Provides definitions for sections 58.20 to 58.23.</p> <p>Subd. 2. Allowable assets for liquidity. Defines as unrestricted cash and unencumbered investment grade assets.</p> <p>Subd. 3. Board of directors. Defines as formal body responsible for compliance with sections 58.21 to 58.23.</p> <p>Subd. 4. Corporate governance. Defines as structure and management of covered institution.</p> <p>Subd. 5. Covered institution. Defines as a mortgage servicer for at least 2,000 residential mortgage loans, excluding owned loans or those serviced prior to sale.</p> <p>Subd. 6. External audit. Defines as a formal report by an independent certified public accountant regarding the state of the financial statements.</p> <p>Subd. 7. Government-sponsored enterprises. Defines as the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.</p> <p>Subd. 8. Interim serviced prior to sale. Defines as the limited number of contractual mortgage payments right after a loan is originated but not longer than 90 days before a loan is sold on the secondary market.</p>
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Subd. 9. Internal audit. Defines as an internal activity to evaluate and improve the effectiveness of the company.

Subd. 10. Mortgage-backed security. Defines as a financial instrument collateralized by residential mortgages.

Subd. 11. Mortgage call report. Defines as the quarterly or annual report of residential real estate loans completed by companies licensed in NMLS.

Subd. 12. Mortgage servicing rights. Defines as the contractual right to service a residential mortgage loan on behalf of the owner of the loan in exchange for compensation.

Subd. 13. Mortgage servicing rights investor. Defines as an entity that invests in and owns mortgage servicing rights and relies on subservicers to administer the loan on the investor's behalf.

Subd. 14. Nationwide Multistate Licensing System. Cross-references to meaning under section 58A.02, subdivision 8.

Subd. 15. Operating liquidity. Defines as the money necessary for an entity to perform normal business operations.

Subd. 16. Residential mortgage loans serviced. Defines as the portfolio of residential mortgage loans for which a licensee is responsible to the owner of the loans for the servicing activities.

Subd. 17. Reverse mortgage. Cross-references to meaning under section 47.58, subdivision 1, paragraph (a).

Subd. 18. Risk management assessment. Defines as evaluations under the risk management program and reports to the board under the relevant governance protocol.

Subd. 19. Risk management program. Defines as the policies and procedures designed to identify, measure, monitor, and mitigate risk of the covered institution.

Subd. 20. Servicer. Cross-references to meaning under section 58.02, subdivision 20.

Subd. 21. Servicing liquidity. Defines as the financial resources necessary to manage liquidity risk arising from servicing functions.

Section	Description
	<p>Subd. 22. Subservicer. Defines as the entity performing routine administration of residential mortgage loans as the agent of a servicer or servicing rights investor.</p> <p>Subd. 23. Subservicing for others. Defines as the contractual activity performed by subservicers on behalf of a servicer or servicing rights investor.</p> <p>Subd. 24. Tangible net worth. Defines as total equity less receivables due from related entities, less goodwill and other intangibles, less pledged assets.</p> <p>Subd. 25. Whole loans. Defines as a loan where the mortgage and underlying credit risk is owned and held on the balance sheet of the entity with ownership.</p>
2	<p>[58.21] Applicability; exclusions.</p> <p>Subd. 1. Applicability. Clarifies that sections 58.20 to 58.23 applies to covered institutions. For entities within a holding company or an affiliated group of companies, sections 58.20 to 58.23 apply at the covered institution level.</p> <p>Subd. 2. Exclusions. (a) Clarifies that sections 58.20 to 58.23 do not apply to persons exempt from licensing under sections 58.04 and 58.05.</p> <p>(b) Clarifies that section 58.22 does not apply to servicers that solely own or conduct reverse mortgage servicing or the reverse mortgage portfolio administered by a covered institution.</p>
3	<p>[58.22] Financial condition.</p> <p>Subd. 1. Compliance required. Requires a covered institution to maintain capital and liquidity in compliance with this section.</p> <p>Subd. 2. Generally accepted accounting principles. Requires all financial data to be determined in accordance with generally accepted accounting principles.</p> <p>Subd. 3. Federal Housing Finance Agency eligibility requirement; policies and procedures. (a) Clarifies that a covered institution that meets the FHA eligibility requirements for enterprise single-family sellers and servicers with respect to capital, net worth ratio, and liquidity requirements that meet the requirements of subdivisions 1 and 2. This is true regardless of whether the servicer is approved for government-sponsored enterprise servicing.</p> <p>(b) Requires a covered institution to maintain policies and procedures that implement the capital and servicing liquidity requirements of this section. Requires the policies and procedures to include a sustainable written methodology that satisfies the requirements of paragraph (a) and are made available to the commissioner upon request.</p>

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Subd. 4. Operating liquidity. (a) Requires a covered institution to maintain sufficient allowable assets for liquidity in addition to the amount necessary for servicing liquidity, to cover normal business operations.

(b) Requires covered institutions to have sound cash management and business operating plans.

(c) Requires covered institutions to have policies and procedures to maintain operating liquidity sufficient for the ongoing needs of the covered institutions. Requires the policies and procedures to contain sustainable methodologies to maintain sufficient operating liquidity and be made available to the commissioner upon request.

4 **[58.23] Corporate governance.**

Subd. 1. Board of directors required. Requires a covered institution to establish and maintain a board of directors responsible for oversight of the covered institutions.

Subd. 2. Board of directors; alternative. Provides that if a covered institution has not received approval to service loans by a government-sponsored enterprise or the Government National Mortgage Association, or if they have granted approval for an alternative board, the covered institution may establish a similar body to exercise oversight and fulfill the responsibilities of subdivision 3.

Subd. 3. Board of directors; responsibilities. Requires the board to establish a written corporate governance framework; monitor the covered institution for compliance with the corporate governance framework, section 58.20, and this section; and perform regulatory reporting.

Subd. 4. Internal audit. Requires the board to establish certain internal audit requirements. Requires the board to make internal audit requirements and the result of internal audits available to the commissioner.

Subd. 5. External audit. (a) Requires a covered institution to annually receive an external audit conducted by an independent public accountant.

(b) Requires the external audit to contain certain items.

Subd. 6. Risk management. (a) Requires a covered institution to establish a risk management program that includes certain items and be scaled to the covered institution's size and complexity.

(b) Requires the risk management program to be scaled to the size and complexity of the covered institution and consider certain risks.

Section **Description**

Subd. 7. Risk management assessment. Requires a covered institution to annually conduct a risk management assessment. The risk management assessment must be in the format of a written report and be made available to the commissioner. Requires a covered institution to retain evidence of risk management activities, issue findings, and responses throughout the year and include it with the report.



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