

# State of South Dakota

EIGHTY-SEVENTH SESSION  
LEGISLATIVE ASSEMBLY, 2012

851T0538

## HOUSE BILL NO. 1229

Introduced by: Representatives Tornow, Abdallah, Boomgarden, Cronin, Feinstein, Hansen (Jon), Killer, Kopp, Lust, Russell, and Venner and Senators Cutler, Brown, Novstrup (Al), and Schlekeway

1 FOR AN ACT ENTITLED, An Act to exempt certain persons from the requirement to license  
2 as a mortgage loan originator.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 54-14-20.1 be amended to read as follows:

5 54-14-20.1. The following are exempt from the requirement of obtaining a mortgage loan  
6 originator license:

7 (1) Any individual who offers or negotiates terms of a mortgage loan with or on behalf  
8 of an immediate family member of the individual;

9 (2) Any individual who offers or negotiates terms of a residential mortgage loan secured  
10 by a dwelling that served as the individual's residence; or

11 (3) ~~A licensed attorney who negotiates the terms of a mortgage loan on behalf of a client~~  
12 ~~as an ancillary matter to the attorney's representation of the client, unless the attorney~~  
13 ~~is compensated by a lender, mortgage brokerage, mortgage broker, or other mortgage~~  
14 ~~loan originator or by any agent of the lender, mortgage broker, or other mortgage loan~~



1           ~~originator~~ Any individual who offers or negotiates terms of three or less  
2           nonresidential mortgage loans in a twelve month period.

3           Section 2. That chapter 54-14 be amended by adding thereto a NEW SECTION to read as  
4 follows:

5           Any attorney licensed in this state performing activities that come within the definition of  
6 a mortgage loan originator, is not required to be licensed as a mortgage loan originator if such  
7 activities are:

- 8           (1)    Considered by the South Dakota Supreme Court to be part of the authorized practice  
9                of law in South Dakota;
- 10          (2)    Carried out within an attorney-client relationship; and
- 11          (3)    Accomplished by the attorney in compliance with all applicable laws, rules, and  
12                standards of professional conduct.