



Senate

General Assembly

File No. 63

January Session, 2021

Senate Bill No. 831

Senate, March 16, 2021

The Committee on Banking reported through SEN. KASSER of the 36th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING COMMERCIAL MORTGAGE LOAN ORIGINATORS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-76i of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2021*):

3 The provisions of sections 31-76b to 31-76j, inclusive, shall not apply
4 with respect to [(a)] (1) any driver or helper, excluding drivers or helpers
5 employed by exempt employers, with respect to whom the Interstate
6 Commerce Commission or its successor agency or the Secretary of
7 Transportation has power to establish qualifications and maximum
8 hours of service pursuant to the provisions of applicable federal law or
9 regulation of any employee of a carrier by air subject to the Railway
10 Labor Act or any employee of any employer subject to said Railway
11 Labor Act; [(b)] (2) any employee employed as a seaman; [(c)] (3) any
12 employee employed as an announcer, a news editor or chief engineer by
13 a radio station or television station; [(d)] (4) repealed by 1972, P.A. 116,
14 S. 3, 6; [(e)] (5) any person employed in a bona fide executive,

15 administrative or professional capacity as defined in the regulations of
16 the Labor Commissioner issued pursuant to section 31-60; [(f)] (6) any
17 person employed in the capacity of outside salesman as defined in the
18 regulations of the Federal Fair Labor Standards Act; [(g)] (7) any inside
19 salesperson whose sole duty is to sell a product or service [(1)] (A)
20 whose regular rate of pay is in excess of two times the minimum hourly
21 rate applicable to him under section 31-58, [(2)] (B) more than half of
22 whose compensation for a representative period, being not less than one
23 month, represents commissions on goods or services, and [(3)] (C) who
24 does not work more than fifty-four hours during a work week of seven
25 consecutive calendar days. In determining the proportion of
26 compensation representing commissions, all earnings resulting from the
27 application of a bona fide commission rate shall be deemed
28 commissions on goods or services without regard to whether the
29 computed commissions exceed the draw or guarantee; [(h)] (8) any
30 person employed as a taxicab driver by any employer engaged in the
31 business of operating a taxicab, if such driver is paid forty per cent or
32 more of the fares recorded on the meter of the taxicab operated by him;
33 [(i)] (9) any person employed in the capacity of a household delivery
34 route salesman engaged in delivering milk or bakery products to
35 consumers and who is paid on a commission basis as defined in the
36 regulations of the Labor Commissioner issued pursuant to section 31-
37 60; [(j)] (10) any salesman primarily engaged in selling automobiles. For
38 the purposes of this subdivision, "salesman" includes any person
39 employed by a licensed new car dealer [(1)] (A) whose primary duty is
40 to sell maintenance and repair services, [(2)] (B) whose regular rate of
41 pay is in excess of two times the minimum hourly rate applicable to him
42 under the provisions of section 31-58, [(3)] (C) more than half of whose
43 compensation for a representative period, being not less than one
44 month, represents commissions on goods or services, and [(4)] (D) who
45 does not work more than fifty-four hours during a work week of seven
46 consecutive days. In determining the proportion of compensation
47 representing commissions, all earnings resulting from the application of
48 a bona fide commission rate shall be deemed commissions on goods or
49 services without regard to whether the computed commissions exceed

50 the draw or guarantee; [(k)] (11) any person employed in agriculture;
51 [(l)] (12) any permanent paid members of the uniformed police force of
52 municipalities and permanent paid members of the uniformed
53 firefighters of municipalities; [(m)] (13) any person employed as a
54 firefighter by a private nonprofit corporation which on May 24, 1984,
55 has a valid contract with any municipality to extinguish fires and protect
56 its inhabitants from loss by fire; [(n)] (14) any person, except a person
57 paid on an hourly basis, employed as a beer delivery truck driver by a
58 licensed distributor, as defined in section 12-433; [(o)] (15) any person
59 employed as a mechanic primarily engaged in the servicing of motor
60 vehicles, as defined in section 14-1, or farm implements, as defined in
61 section 14-1, by a nonmanufacturing employer primarily engaged in the
62 business of selling such vehicles or implements to consumers, to the
63 extent that such employees are exempt under the federal Wage-Hour
64 and Equal Pay Act, 29 USC 201 et seq. and 29 USC 213(b)(10), provided
65 such person's actual weekly earnings exceed an amount equal to the
66 total of [(1)] (A) such person's basic contractual hourly rate of pay times
67 the number of hours such person has actually worked plus [(2)] (B) such
68 person's basic contractual hourly rate of pay times one-half the number
69 of hours such person has actually worked in excess of forty hours in
70 such week. For the purposes of this section, "basic contractual hourly
71 rate" means the compensation payable to a person at an hourly rate
72 separate from and exclusive of any flat rate, incentive rate or any other
73 basis of calculation; [or (p)] (16) any mortgage loan originator, as
74 defined in section 36a-485, who is a highly compensated employee, as
75 [defined] described in 29 CFR 541.601, provided this subdivision shall
76 not apply to an individual who performs the functions of a mortgage
77 loan originator solely from the office of such mortgage loan originator's
78 employer. For purposes of this subdivision, an office in the mortgage
79 loan originator's home shall not be considered the office of such
80 mortgage loan originator's employer. Beginning on October 1, 2012, the
81 total annual compensation for purposes of Subsection (a) of 29 CFR
82 541.601 shall be increased annually, effective October first of each year,
83 based on the percentage increase, from year to year, in the average of all
84 workers' weekly earnings as determined by the Labor Commissioner

85 pursuant to subdivision (1) of subsection (b) of section 31-309; or (17)
 86 any commercial mortgage loan originator who is a highly compensated
 87 employee, as described in 29 CFR 541.601. For purposes of this
 88 subdivision, (A) "commercial mortgage loan originator" means an
 89 individual who for compensation or gain or with the expectation of
 90 compensation or gain, either for such individual or for the person
 91 employing or retaining such individual, (i) accepts a commercial
 92 mortgage loan application, or (ii) offers or negotiates the terms of a
 93 commercial mortgage loan, and (B) "commercial mortgage loan" means
 94 a mortgage loan not primarily for personal, family or household use.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2021</i>	31-76i

BA *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill, which excludes commercial mortgage loan originators from state overtime pay requirements, does not result in any fiscal impact to the state or municipalities.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**SB 831****AN ACT CONCERNING COMMERCIAL MORTGAGE LOAN ORIGINATORS.****SUMMARY**

This bill excludes from the state's overtime pay requirements (time and one-half after 40 hours a week) commercial mortgage loan originators considered to be highly compensated employees under federal regulations. The law already excludes highly compensated mortgage loan originators from the requirements.

Under federal regulations, someone with total annual compensation of at least \$107,432, whose primary duty includes office or non-manual work, and who customarily and regularly performs exempt duties or responsibilities of an executive, administrative, or professional employee as identified in regulation, is exempt from the minimum wage and overtime pay requirements of the federal Fair Labor Standards Act (29 C.F.R. § 541.601).

The bill applies to individuals who for, or with the expectation of, compensation or gain for themselves or their employer (1) accept a commercial mortgage loan application or (2) offer or negotiate a commercial mortgage loan's terms. The loans involved are those which are primarily not for personal, family, or household use.

EFFECTIVE DATE: October 1, 2021

COMMITTEE ACTION

Banking Committee

Joint Favorable

Yea 18 Nay 0 (02/23/2021)