

# Legislative Analysis



## **MORTGAGE LOAN ORIGINATOR TEMPORARY AUTHORITY**

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**House Bill 5084 (H-2) as reported from committee**  
**Sponsor: Rep. Diana Farrington**  
**1st Committee: Financial Services**  
**2nd Committee: Ways and Means**  
**Complete to 10-23-19**

Analysis available at  
<http://www.legislature.mi.gov>

### **SUMMARY:**

House Bill 5084 would amend the Mortgage Loan Originator Licensing Act to allow a grace period of temporary authority to act as a mortgage loan originator, without first obtaining a license, for certain registered mortgage loan originators who have changed their employment and certain mortgage loan originators who are licensed in another state.

Under the bill, a registered mortgage loan originator who becomes employed by an entity that is not a depository institution (i.e., a bank or credit union) or part of the Farm Credit System would have (for the time period described below) temporary authority to act as a mortgage loan originator without obtaining a license if all of the following conditions apply:

- He or she is employed by an entity that is licensed or registered under the Mortgage Brokers, Lenders, and Servicers Licensing Act, the Secondary Mortgage Act, or the Consumer Financial Services Act.
- He or she has not had an application for a mortgage loan originator license denied, or such a license revoked or suspended, in this or another state.
- He or she has not been subject to, or served with, a cease and desist order in this or another state or under 12 USC 5113.
- He or she has not been convicted of, or pled guilty or no contest to, a misdemeanor or felony that would preclude licensure under the act.
- He or she has submitted an application for licensure under section 7 of the act and has paid the fee under section 19 and met the applicable surety bond requirement of section 29.
- He or she was registered in the nationwide mortgage licensing system and registry as a mortgage loan originator during the one-year period preceding the date he or she submitted the information required under section 7 of the act.
- He or she is not subject to a probation order issued under section 27 of the act or under any of the following acts:
  - The Consumer Financial Services Act.
  - The Regulatory Loan Act.
  - The Secondary Mortgage Loan Act.
  - The Motor Vehicle Sales Finance Act.
  - 1984 PA 379, concerning credit card arrangements.
  - The Sale of Checks Act.

- The Money Transmission Services Act.
- The Mortgage Brokers, Lenders, and Servicers Licensing Act.

The bill would also allow an individual who is a mortgage loan originator licensed in another state to have (for the time period described below) temporary authority to act as a mortgage loan originator in this state without obtaining a license if he or she met the requirements listed above and was licensed in another state during the 30-day period immediately preceding the date he or she submitted the information required under section 7 of the act.

The temporary authority provided above, for both registered mortgage loan originators and out-of-state mortgage loan originators, would begin on the date the individual has submitted the information required under section 7, paid the fee required under section 19, and met the applicable surety bond requirement described in section 29. The temporary authority would end on the earliest of the following dates:

- The date the individual withdraws the submitted application.
- The date the director denies, or issues a notice of intent to deny, the application.
- The date the director approves the application.
- 120 days after the date he or she submitted the application, if the application is listed on the nationwide mortgage licensing system and registry as incomplete.

For purposes of the above provisions, “state” would mean any state or territory of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

Under the bill, both a person employing an individual with the temporary authority described above as a mortgage loan originator in this state, and that individual who engages in residential mortgage loan origination activities, would be subject to the applicable law of this state to the same extent as if that individual were a licensed mortgage loan originator.

Finally, the bill would define, for purposes of the act, the terms “department” and “office of financial and insurance regulation” to mean the Department of Insurance and Financial Services (DIFS) and the term “director” to mean the director of DIFS or his or her designee.

MCL 493.133 et seq.

## **BACKGROUND:**

In 2018, the Economic Growth, Regulatory Relief, and Consumer Protection Act amended the federal Secure and Fair Enforcement for Mortgage Licensing (SAFE) Act of 2008 to provide for temporary authority for mortgage loan originators seeking licensure in another state or seeking licensure under different employment parameters (basically, changing employers from a banking lender to a non-banking lender). States are required to implement this transitional authority by November 24, 2019. House Bill 5084 would bring Michigan into compliance with these changes to federal law.

## **FISCAL IMPACT:**

House Bill 5084 would likely not have a significant fiscal impact on the Department of Insurance and Financial Services. The department may experience minor administrative costs under the bill, but these would likely be nominal.

## **POSITIONS:**

Representatives of the following entities testified in support of the bill (10-16-19):

- Department of Insurance and Financial Services
- Michigan Mortgage Lenders Association

The following entities indicated support for the bill:

- Michigan Bankers Association (10-22-19)
- Michigan Credit Union League (10-22-19)
- Quicken Loans (10-16-19)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.