

REPRINT

SUBSTITUTE FOR

HOUSE BILL NO. 5783

(As passed the House, June 25, 1998)

A bill to amend 1987 PA 173, entitled
"Mortgage brokers, lenders, and servicers licensing act,"
by amending section 25 (MCL 445.1675), as amended by 1996 PA 210,
and by adding section 25a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 25. This act does not apply to ANY OF the following:
2 (a) A depository financial institution whether or not the
3 depository financial institution is acting in a capacity of a
4 trustee or fiduciary.
5 (b) A salesperson acting as an agent for a residential
6 builder or residential maintenance and alteration contractor, or
7 a residential builder or residential maintenance and alteration
8 contractor licensed under article 24 of the occupational code,
9 ~~Act No. 299 of the Public Acts of 1980, being sections 339.2401~~
10 ~~to 339.2412 of the Michigan Compiled Laws~~ 1980 PA 299, MCL

HB 5783, As Passed Senate, September 24, 1998

House Bill No. 5783

2

1 339.2401 TO 339.2412, when a mortgage is made or negotiated in
2 connection with the sale or financing of a residential structure
3 or improvement constructed or improved by that residential
4 builder or residential maintenance and alteration contractor.

5 (c) A real estate broker or real estate salesperson who is
6 not a mortgage broker, mortgage lender, or mortgage servicer, or
7 who only acts as a mortgage broker in connection with a real
8 estate sale or lease and acts without additional compensation
9 beyond the customary commission on ~~such~~ THE sales or leases.

10 (d) A real estate salesperson who acts for a real estate
11 broker as a mortgage broker, mortgage lender, or mortgage serv-
12 icer and who receives for ~~such~~ THE services compensation only
13 from the real estate broker for which the salesperson is an agent
14 or employee.

15 (e) A person licensed under ~~Act No. 125 of the Public Acts~~
16 ~~of 1981, being sections 493.51 to 493.81 of the Michigan Compiled~~
17 ~~Laws~~ THE SECONDARY MORTGAGE LOAN ACT, 1981 PA 125, MCL 493.51 TO
18 493.81, not making, brokering, or servicing mortgage loans as
19 described in this act in a 12-month period from July 1 to June
20 30.

21 (f) Agencies or corporate instrumentalities of the United
22 States and of this state and its political subdivisions, includ-
23 ing the public employees' retirement system.

24 (g) A mortgage lender that in the aggregate with any affili-
25 ates makes 10 or fewer mortgage loans in a 12-month period from
26 July 1 to June 30.

HB 5783, As Passed Senate, September 24, 1998

House Bill No. 5783

3

1 (h) A mortgage servicer that in the aggregate with any
2 affiliates services 10 or fewer mortgage loans in a 12-month
3 period from July 1 to June 30.

4 (i) A mortgage servicer that in the aggregate with any
5 affiliates services only 75 or fewer land contracts, of which 10
6 or fewer require the collection of money for the payment of taxes
7 or insurance. This subdivision and subdivision (h) do not exempt
8 a mortgage servicer who collects money for the payment of taxes
9 or insurance from the provisions of ~~Act No. 125 of the Public~~
10 ~~Acts of 1966, being sections 565.161 to 565.164 of the Michigan~~
11 ~~Compiled Laws~~ 1966 PA 125, MCL 565.161 TO 565.164. All fees
12 shall be returned to any mortgage servicer described in this sub-
13 division who applied for a license and paid the fees required by
14 this act and who on December 27, 1988 is exempted from
15 licensing.

16 (j) An individual licensed to practice law in this state and
17 not engaged in the business of negotiating loans secured by real
18 property, when the individual renders services in the course of
19 his or her practice as an attorney-at-law.

20 (k) A person who makes mortgage loans exclusively for the
21 benefit of employees of that person if the proceeds of the loan
22 are used to assist the employee in meeting his or her housing
23 needs.

24 (l) A person acting as a fiduciary with respect to any
25 employee pension benefit plan qualified under the internal reve-
26 nue code who makes mortgage loans solely to plan participants
27 from plan assets.

HB 5783, As Passed Senate, September 24, 1998

House Bill No. 5783

4

1 (m) A mortgage broker, mortgage lender, or a mortgage
2 servicer which is a subsidiary or affiliate of a depository
3 financial institution or a subsidiary or affiliate of a holding
4 company of a depository financial institution which depository
5 financial institution maintains its main office or a branch
6 office in this state.

7 (n) A nonprofit corporation ~~established pursuant to~~ THAT
8 MAKES, BROKERS, OR SERVICES MORTGAGE LOANS IN CONNECTION WITH A
9 NEIGHBORHOOD HOUSING PROGRAM ASSISTED UNDER the neighborhood
10 reinvestment corporation act, title VI of Public Law 95-557,
11 42 U.S.C. 8101 to 8107.

12 (o) A PERSON DETERMINED BY THE COMMISSIONER TO MEET THE
13 QUALIFICATIONS ESTABLISHED UNDER SECTION 25A.

14 SEC. 25A. (1) EXCEPT FOR THE REQUIREMENTS OF SECTION 23,
15 THE COMMISSIONER MAY EXEMPT FROM THE REQUIREMENTS OF THIS ACT A
16 PERSON THE COMMISSIONER BELIEVES MERITS THE CONFIDENCE OF THE
17 COMMUNITY AND DEMONSTRATES ALL OF THE FOLLOWING:

18 (A) IS EXEMPT FROM FEDERAL INCOME TAXES UNDER SECTION 501(c)
19 OF THE INTERNAL REVENUE CODE OF 1986.

20 (B) ADMINISTERS A MORTGAGE LOAN PROGRAM FUNDED OR SPONSORED
21 BY 1 OR MORE DEPOSITORY FINANCIAL INSTITUTIONS, STATE OR FEDERAL
22 GOVERNMENTAL ENTITIES, OR CHARITABLE, RELIGIOUS, OR OTHER NON-
23 PROFIT ORGANIZATIONS.

24 (C) ITS MORTGAGE LOAN PROGRAM IS TARGETED EXCLUSIVELY TO
25 PERSONS THAT WOULD NOT OTHERWISE HAVE ACCESS TO AFFORDABLE MORT-
26 GAGE LOANS FROM TRADITIONAL MORTGAGE LENDING SOURCES.

HB 5783, As Passed Senate, September 24, 1998

House Bill No. 5783

5

1 (D) ITS HOUSING DEVELOPMENT EFFORTS HAVE THE SUPPORT OF THE
2 AGENCY OF ITS LOCAL GOVERNMENTAL JURISDICTION RESPONSIBLE FOR
3 COMMUNITY DEVELOPMENT.

4 (E) ITS MORTGAGE LENDING ACTIVITY IS LIMITED TO A DEFINED
5 GEOGRAPHIC AREA IN THIS STATE, NOT LARGER THAN A COUNTY IN THE
6 CASE OF A METROPOLITAN STATISTICAL AREA.

7 (F) HAS THE CAPACITY TO ACCOMPLISH ITS BUSINESS PLAN.

8 (G) DOES NOT DIRECTLY OR INDIRECTLY SHARE WITH ANOTHER
9 PERSON ANY PORTION OF FEES PAID TO THE ORGANIZATION IN CONNECTION
10 WITH A MORTGAGE LOAN.

11 (H) THAT IT WILL COMPLY WITH STATE AND FEDERAL LAW AND WITH
12 THE SPIRIT AND INTENT OF SECTION 22A.

13 (I) DOES NOT SERVICE MORTGAGE LOANS.

14 (2) NOTWITHSTANDING SUBSECTION (1)(I), THE COMMISSIONER MAY
15 ISSUE AN EXEMPTION TO A PERSON THAT SERVICES MORTGAGE LOANS IF
16 THE PERSON HAS COMPLIED WITH SUBSECTION (1)(A) THROUGH (H) AND
17 THE COMMISSIONER DETERMINES THE EXEMPTION IS IN THE PUBLIC
18 INTEREST.

19 (3) NOT LATER THAN FEBRUARY 1 OF EVERY SECOND YEAR FOLLOWING
20 THE COMMISSIONER'S DETERMINATION THAT AN ORGANIZATION MEETS THE
21 QUALIFICATIONS UNDER SUBSECTION (1) OR (2), THE ORGANIZATION
22 SHALL FILE AN AFFIDAVIT THAT IT CONTINUES TO MEET THE
23 QUALIFICATIONS.

24 (4) AN ORGANIZATION THAT HAS BEEN DETERMINED TO MEET THE
25 QUALIFICATIONS OF SUBSECTION (1) OR (2) AND SUBSEQUENTLY FAILS TO
26 MEET 1 OR MORE OF THOSE QUALIFICATIONS SHALL WITHIN 90 DAYS
27 REGISTER OR FILE AN APPLICATION FOR LICENSE UNDER SECTION 3(1) OR

HB 5783, As Passed Senate, September 24, 1998

House Bill No. 5783

6

1 DISCONTINUE ACTIVITIES THAT WOULD REQUIRE REGISTRATION OR
2 LICENSURE UNDER THIS ACT.

3 Enacting section 1. This amendatory act does not take
4 effect unless House Bill No. 5784 of the 89th Legislature is
5 enacted into law.