

SUBSTITUTE FOR
SENATE BILL NO. 1555

A bill to amend 1987 PA 173, entitled
"Mortgage brokers, lenders, and servicers licensing act,"
by amending section 2 (MCL 445.1652), as amended by 2008 PA 59.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) A person shall not act as a mortgage broker,
2 mortgage lender, or mortgage servicer without first obtaining a
3 license ~~or registering~~ under this act **OR REGISTERING UNDER SECTION**
4 **6**, unless 1 or more of the following apply:

5 (a) The person is ~~solely performing~~ **PROVIDING LOAN OFFICER**
6 services as an employee **OR AGENT** of only 1 mortgage broker,
7 mortgage lender, or mortgage servicer ~~. This subdivision does not~~
8 ~~apply after December 31, 2008.~~ **AND IS REGISTERED AS A LOAN OFFICER**
9 **REGISTRANT IF THAT REGISTRATION IS REQUIRED UNDER THIS ACT.**

10 (b) The person is exempted from the act under section 25.

1 (c) The person is licensed as a class I licensee under the
2 consumer financial services act, 1988 PA 161, MCL 487.2051 to
3 487.2072.

4 (d) The individual is an employee of a professional employer
5 organization, as that term is defined in section 113 of the
6 Michigan business tax act, 2007 PA 36, MCL 208.1113, solely acting
7 as a residential mortgage originator of only 1 mortgage broker or
8 mortgage lender. The mortgage broker or mortgage lender shall do
9 all of the following:

10 (i) Direct and control the activities of the individual under
11 this act.

12 (ii) Be responsible for all activities of the individual and
13 assume responsibility for the individual's actions that are covered
14 by the proof of financial responsibility deposit required under
15 section 4.

16 (2) A person that is licensed to make regulatory loans under
17 the regulatory loan act, 1939 PA 21, MCL 493.1 to 493.24, or is
18 licensed to make secondary mortgage loans under the secondary
19 mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81, and is
20 registered with the commissioner shall file with the commissioner
21 an application for a license under section 3(1) or shall
22 discontinue all activities that are subject to this act.

23 (3) Unless a residential mortgage originator is otherwise
24 licensed or registered under this act, a residential mortgage
25 originator shall not receive directly or indirectly any
26 compensation, commission, fee, points, or other remuneration or
27 benefits from a mortgage broker, mortgage lender, or mortgage

1 servicer other than the employer of the residential mortgage
2 originator. This subsection does not apply after ~~December 31, 2008~~
3 **MARCH 31, 2009.**

4 (4) Beginning ~~January~~ **APRIL** 1, 2009, a loan officer shall not
5 directly or indirectly receive any compensation, commission, fee,
6 points, or other remuneration or benefits for originating a
7 mortgage loan unless both of the following are met:

8 (a) The loan officer is a loan officer registrant.

9 (b) The compensation, commission, fee, points, or other
10 remuneration or benefits are paid by the licensee or registrant for
11 which the loan officer originated that mortgage loan.

12 (5) Unless a residential mortgage originator is otherwise
13 licensed or registered under this act, a mortgage broker, mortgage
14 lender, or mortgage servicer shall not pay directly or indirectly
15 any compensation, commission, fee, points, or other remuneration or
16 benefits to a residential mortgage originator other than an
17 employee of the mortgage broker, mortgage lender, or mortgage
18 servicer. As used in this subsection and subsection (3),
19 "residential mortgage originator" means a person who assists
20 another person in obtaining a mortgage loan. This subsection does
21 not apply after ~~December 31, 2008~~ **MARCH 31, 2009.**

22 (6) Beginning ~~January~~ **APRIL** 1, 2009, a mortgage broker,
23 mortgage lender, or mortgage servicer shall not directly or
24 indirectly pay any compensation, commission, fee, points, or other
25 remuneration or benefits to any of the following:

26 (a) A loan officer who is not a loan officer registrant.

27 (b) A loan officer registrant who is not an employee or agent

1 of that mortgage broker, mortgage lender, or mortgage servicer.

2 (7) A mortgage broker, mortgage lender, or mortgage servicer
3 that is exempt from regulation under this act and is a subsidiary
4 or affiliate of a depository financial institution or a depository
5 financial institution holding company that does not maintain a main
6 office or branch office in this state, shall register under section
7 6 or shall discontinue all activities subject to this act.

8 (8) Except for a state or nationally chartered bank, savings
9 bank, or an affiliate of a bank or savings bank, the person subject
10 to this act shall not include in its name or assumed name, the
11 words "bank", "banker", "banking", "banc", "bankcorp", "bancorp",
12 or any other words or phrases that would imply that the person is a
13 bank, is engaged in the business of banking, or is affiliated with
14 a bank or savings bank. It is not a violation of this subsection
15 for a licensee or registrant to use the term "mortgage banker" or
16 "mortgage banking" in its name or assumed name. A person subject to
17 this act whose name or assumed name on January 1, 1995 contained a
18 word prohibited by this section may continue to use the name or
19 assumed name.

20 (9) As used in this section, "employee" means that term as
21 defined in section 3401 of the internal revenue code, 26 USC 3401.

22 Enacting section 1. This amendatory act does not take effect
23 unless all of the following bills of the 94th Legislature are
24 enacted into law:

25 (a) Senate Bill No. 1552.

26 (b) Senate Bill No. 1553.

27 (c) Senate Bill No. 1554.

1 (d) House Bill No. 6562.