

HOUSE BILL No. 5288

October 11, 2007, Introduced by Reps. Coulouris, Young, Kathleen Law, Hopgood, Brown, Valentine, Hammel, Robert Jones, Vagnozzi, Mayes, Gonzales, Donigan, Dean and Tobocman and referred to the Committee on Banking and Financial Services.

A bill to amend 1987 PA 173, entitled
"Mortgage brokers, lenders, and servicers licensing act,"
(MCL 445.1651 to 445.1684) by adding section 2a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 2A. (1) AN EMPLOYEE OF A LICENSEE OR REGISTRANT SHALL NOT
2 PERFORM SERVICES OF A LOAN OFFICER UNLESS HE OR SHE REGISTERS OR
3 OTHERWISE COMPLIES WITH THIS SECTION.

4 (2) IF AN INDIVIDUAL IS EMPLOYED AS A LOAN OFFICER BY A
5 MORTGAGE BROKER, MORTGAGE LENDER, OR MORTGAGE SERVICER, THAT
6 INDIVIDUAL SHALL APPLY FOR LOAN OFFICER REGISTRATION UNDER THIS
7 SECTION WITHIN 90 DAYS AFTER HE OR SHE BEGINS PROVIDING SERVICES AS
8 AN EMPLOYEE OF THE MORTGAGE BROKER, MORTGAGE LENDER, OR MORTGAGE
9 SERVICER, BY SUBMITTING THE APPLICATION DESCRIBED IN SUBSECTION

1 (3), IN WRITING, AND INCLUDING WITH THE APPLICATION THE ANNUAL
2 OPERATING FEE ESTABLISHED UNDER SECTION 8(3).

3 (3) THE COMMISSIONER SHALL PRESCRIBE THE FORM OF APPLICATION
4 FOR REGISTRATION AS A LOAN OFFICER. SUBJECT TO SUBSECTION (8), THE
5 APPLICATION FORM SHALL REQUIRE THAT AN APPLICANT PROVIDE AT LEAST
6 ALL OF THE FOLLOWING TO THE COMMISSIONER:

7 (A) THE NAME AND HOME ADDRESS OF THE APPLICANT.

8 (B) A STATEMENT AS TO WHETHER THE APPLICANT HAS EVER BEEN
9 CONVICTED OF, OR PLED NO CONTEST TO, ANY FELONY INVOLVING
10 EMBEZZLEMENT, FORGERY, FRAUD, A FINANCIAL TRANSACTION, OR
11 SECURITIES.

12 (C) A STATEMENT AS TO WHETHER THE APPLICANT HAS HAD AN
13 APPLICATION DENIED, OR A LICENSE, REGISTRATION, OR SIMILAR
14 AUTHORITY REVOKED OR SUSPENDED, TO PRACTICE ANY PROFESSION OR
15 OCCUPATION IN ANY JURISDICTION, INCLUDING, BUT NOT LIMITED TO,
16 LICENSURE OR REGISTRATION AS A MORTGAGE BROKER, MORTGAGE LENDER, OR
17 MORTGAGE SERVICER IN WHICH THE APPLICANT HELD MORE THAN 25% OF THE
18 OWNERSHIP INTEREST OR AS A LOAN OFFICER.

19 (D) EXCEPT FOR AN APPLICATION DESCRIBED IN SUBSECTION (4),
20 PROOF IN THE FORM OF A CERTIFICATE OF COMPLETION OR OTHER EVIDENCE
21 ACCEPTABLE TO THE COMMISSIONER THAT THE APPLICANT HAS COMPLETED AT
22 LEAST 24 HOURS OF LIVE PROFESSIONAL CLASSROOM INSTRUCTION IN THIS
23 STATE IN AN INTRODUCTORY COURSE IN RESIDENTIAL MORTGAGE LENDING
24 THAT IS SPONSORED OR PROVIDED BY A PERSON, AND TAUGHT BY AN
25 INSTRUCTOR, APPROVED BY THE COMMISSIONER. THE 24 HOURS OF
26 INSTRUCTION SHALL INCLUDE AT LEAST 3 HOURS OF LIVE CLASSROOM
27 INSTRUCTION CONCERNING STATE AND FEDERAL LAWS AND REGULATIONS

1 GOVERNING RESIDENTIAL MORTGAGE LENDING, THE CONTENT OF WHICH HAS
2 BEEN APPROVED BY THE COMMISSIONER.

3 (E) EVIDENCE ACCEPTABLE TO THE COMMISSIONER THAT THE APPLICANT
4 CORRECTLY ANSWERED AT LEAST 75% OF THE QUESTIONS ON AN EXAMINATION
5 APPROVED BY THE COMMISSIONER THAT TESTS AN APPLICANT'S KNOWLEDGE OF
6 THE CONTENTS OF THE INTRODUCTORY COURSE IN RESIDENTIAL MORTGAGE
7 LENDING DESCRIBED IN SUBDIVISION (D).

8 (F) THE RESULTS OF A CRIMINAL RECORDS CHECK OF THE APPLICANT
9 CONDUCTED BY THE EMPLOYER, THAT INCLUDES A CHECK OF THE APPLICANT'S
10 FINGERPRINTS, TAKEN BY A LAW ENFORCEMENT AGENCY OR ANY OTHER PERSON
11 DETERMINED BY THE DEPARTMENT TO BE QUALIFIED TO TAKE FINGERPRINTS.

12 (G) ANY OTHER INFORMATION REQUIRED BY THE COMMISSIONER.

13 (4) AN APPLICANT FOR LOAN OFFICER REGISTRATION MAY PERFORM
14 SERVICES AS A LOAN OFFICER WHILE HIS OR HER APPLICATION IS PENDING
15 IF ALL OF THE FOLLOWING ARE MET:

16 (A) THE APPLICANT HAS SUBMITTED HIS OR HER FINGERPRINTS TO HIS
17 OR HER EMPLOYER FOR PURPOSES OF THE CRIMINAL RECORDS CHECK
18 DESCRIBED IN SUBSECTION (3) (F).

19 (B) THE EMPLOYER OF THE APPLICANT HAS SUBMITTED THE REQUEST
20 FOR THE CRIMINAL RECORDS CHECK OF THE APPLICANT DESCRIBED IN
21 SUBSECTION (3) (F) TO THE LAW ENFORCEMENT AGENCY OR PERSON THAT IS
22 CONDUCTING THAT RECORDS CHECK OF THE APPLICANT ON BEHALF OF THE
23 EMPLOYER.

24 (C) IF THE EMPLOYER RECEIVES THE RESULTS OF THE CRIMINAL
25 RECORDS CHECK SUBMITTED UNDER SUBDIVISION (B) WHILE THE LOAN
26 OFFICER REGISTRATION APPLICATION IS PENDING, THE CRIMINAL RECORDS
27 CHECK DOES NOT DISCLOSE THAT THE APPLICANT HAS BEEN CONVICTED OF,

1 OR PLED NO CONTEST TO, ANY FELONY INVOLVING EMBEZZLEMENT, FORGERY,
2 FRAUD, A FINANCIAL TRANSACTION, OR SECURITIES.

3 (D) THE EMPLOYER OF THE APPLICANT HAS PROVIDED THE
4 COMMISSIONER WITH WRITTEN NOTICE THAT THE APPLICANT IS BEGINNING TO
5 PROVIDE SERVICES AS ANY EMPLOYEE TO THE EMPLOYER.

6 (5) THE COMMISSIONER SHALL NOT ISSUE A REGISTRATION TO ANY OF
7 THE FOLLOWING:

8 (A) AN APPLICANT WHO HAS BEEN CONVICTED OF, OR PLED NO CONTEST
9 TO, ANY FELONY INVOLVING EMBEZZLEMENT, FORGERY, FRAUD, A FINANCIAL
10 TRANSACTION, OR SECURITIES.

11 (B) AN APPLICANT AGAINST WHOM THE COMMISSIONER HAS ISSUED A
12 PROHIBITION ORDER UNDER SECTION 18A.

13 (6) THE COMMISSIONER MUST REGISTER A LOAN OFFICER WHO MEETS
14 ALL OF THE FOLLOWING:

15 (A) FOR THE 5-YEAR PERIOD IMMEDIATELY PRECEDING THE EFFECTIVE
16 DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION, HE OR SHE MEETS
17 ANY OF THE FOLLOWING:

18 (i) WAS EMPLOYED AS A LOAN OFFICER FOR AT LEAST 4-1/2 YEARS BY
19 1 OR MORE LICENSEES, REGISTRANTS, OR PERSONS EXEMPT FROM THIS ACT
20 UNDER SECTION 25.

21 (ii) CONTINUOUSLY OWNED AT LEAST A 25% INTEREST IN A LICENSEE
22 OR REGISTRANT.

23 (B) HE OR SHE WAS NOT THE SUBJECT OF ANY PROHIBITION ORDERS
24 ISSUED BY THE COMMISSIONER UNDER SECTION 18A IN THE 5-YEAR PERIOD
25 IMMEDIATELY PRECEDING THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT
26 ADDED THIS SECTION.

27 (C) WITHIN 8 MONTHS AFTER THE EFFECTIVE DATE OF THE AMENDATORY

1 ACT THAT ADDED THIS SECTION, HE OR SHE TAKES THE EXAMINATION
2 DESCRIBED IN SUBSECTION (3) (E) AND CORRECTLY ANSWERS AT LEAST 75%
3 OF THE QUESTIONS ON THE EXAMINATION.

4 (D) WITHIN 8 MONTHS AFTER THE EFFECTIVE DATE OF THE AMENDATORY
5 ACT THAT ADDED THIS SECTION, HE OR SHE SUBMITS AN APPLICATION UNDER
6 SUBSECTION (3). HOWEVER, THE APPLICANT IS NOT REQUIRED TO COMPLETE
7 OR SUBMIT PROOF OF COMPLETION OF THE INSTRUCTION DESCRIBED IN
8 SUBSECTION (3) (D).

9 (7) AN EMPLOYEE OF A MORTGAGE BROKER, MORTGAGE LENDER, OR
10 MORTGAGE SERVICER THAT IS EXEMPT FROM LICENSING OR REGISTRATION
11 UNDER THIS ACT MAY APPLY TO BE A LOAN OFFICER REGISTRANT UNDER THIS
12 SECTION.

13 (8) THE COMMISSIONER MAY WAIVE ANY OF THE REQUIREMENTS OF THIS
14 SECTION FOR LOAN OFFICER REGISTRATION IF THE APPLICANT HAS A VALID,
15 SIMILAR LICENSE OR REGISTRATION FROM ANOTHER STATE THAT HAS A
16 RECIPROCAL AGREEMENT WITH THE COMMISSIONER.

17 (9) THE COMMISSIONER MAY DISCLOSE, PROVIDE, OR MAKE AVAILABLE
18 TO THE PUBLIC THE NAMES, BUSINESS ADDRESSES, AND BUSINESS TELEPHONE
19 NUMBERS OF LOAN OFFICER REGISTRANTS. THE COMMISSIONER SHALL NOT
20 DISCLOSE, PROVIDE, OR MAKE AVAILABLE TO THE PUBLIC ANY OTHER
21 PERSONAL IDENTIFYING INFORMATION ABOUT LOAN OFFICER REGISTRANTS OR
22 APPLICANTS FOR LOAN OFFICER REGISTRATION.

23 (10) AN INDIVIDUAL EMPLOYED BY A LICENSEE AS A LOAN OFFICER
24 SHALL NOT USE THE TITLE OR DESIGNATION "LOAN OFFICER", "LOAN
25 ORIGINATOR", "MORTGAGE LOAN OFFICER", OR "MORTGAGE LOAN ORIGINATOR"
26 IF HE OR SHE IS NOT A LOAN OFFICER REGISTRANT. A LOAN OFFICER
27 REGISTRANT AND THE EMPLOYER OF A LOAN OFFICER REGISTRANT SHALL NOT

1 USE THE WORD "REGISTERED", "CERTIFIED", OR ANY WORD OF SIMILAR
2 IMPORT IN HIS OR HER TITLE OR DESIGNATION TO IDENTIFY HIM OR HER AS
3 AN INDIVIDUAL WHO HAS MET THE REGISTRATION REQUIREMENTS OF THIS ACT
4 UNLESS USE OF THAT WORD IS APPROVED BY OFIS.

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

8 (a) Senate Bill No.____ or House Bill No.____ (request no.
9 03068'07).

10 (b) Senate Bill No.____ or House Bill No.____ (request no.
11 03157'07).

12 (c) Senate Bill No.____ or House Bill No.____ (request no.
13 05192'07).

14 (d) Senate Bill No.____ or House Bill No. 5289(request no.
15 05193'07).

16 (e) Senate Bill No.____ or House Bill No.____ (request no.
17 05194'07).

18 (f) Senate Bill No.____ or House Bill No.____ (request no.
19 05195'07).

20 (g) Senate Bill No.____ or House Bill No.____ (request no.
21 05196'07).

22 (h) Senate Bill No.____ or House Bill No. 5290(request no.
23 05197'07).

24 (i) Senate Bill No.____ or House Bill No. 5291(request no.
25 05198'07).

26 (j) Senate Bill No.____ or House Bill No.____ (request no.
27 05199'07).

1 (k) Senate Bill No.____ or House Bill No.____ (request no.
2 05200'07).