

# SENATE BILL No. 1552

November 5, 2008, Introduced by Senators BROWN, RICHARDVILLE, SANBORN, BARCIA, BIRKHOLZ, PAPPAGEORGE, GARCIA and BASHAM and referred to the Committee on Banking and Financial Institutions.

A bill to amend 1981 PA 125, entitled  
"The secondary mortgage loan act,"  
by amending the title and sections 1, 2, 6, 6a, 6b, 11, 13, 20, 22,  
and 27 (MCL 493.51, 493.52, 493.56, 493.56a, 493.56b, 493.61,  
493.63, 493.70, 493.72, and 493.77), the title and sections 6, 11,  
13, 20, 22, and 27 as amended and section 6a as added by 1997 PA  
91, sections 1 and 6b as amended by 2002 PA 392, and section 2 as  
amended by 2007 PA 46, and by adding sections 2a, 2b, 2c, 2d, and  
26a.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

### TITLE

An act to regulate secondary mortgage loans; **TO REGULATE  
SECONDARY MORTGAGE BROKERS, LENDERS, SERVICERS, AND LOAN OFFICERS;**  
to prescribe powers and duties of certain state agencies and

1 officials; to require certain fees; to provide for the  
2 establishment of a revolving fund; to provide for the promulgation  
3 of rules; and to **PROVIDE REMEDIES AND** prescribe ~~civil fines and~~  
4 penalties.

5 Sec. 1. (1) This act shall be known and may be cited as "the  
6 secondary mortgage loan act".

7 (2) As used in this act:

8 (a) "Broker" means a person who, directly or indirectly, does  
9 1 or both of the following:

10 (i) Serves or offers to serve as an agent for a person  
11 attempting to obtain a secondary mortgage loan.

12 (ii) Serves or offers to serve as an agent for a person who  
13 makes or offers to make a secondary mortgage loan.

14 (b) "Commissioner" means the commissioner of the office of  
15 financial and insurance ~~services~~ **REGULATION** of the department of  
16 ~~consumer and industry services and any~~ **LABOR AND ECONOMIC GROWTH OR**  
17 **HIS OR HER** authorized representatives. ~~of the commissioner.~~

18 (c) "Control person" means a director or executive officer of  
19 a licensee or registrant or a person who has the authority to  
20 participate in the direction, directly or indirectly through 1 or  
21 more other persons, of the management or policies of a licensee or  
22 registrant.

23 (d) "Depository financial institution" means a state or  
24 nationally chartered bank, state or federal chartered savings and  
25 loan association, savings bank, or credit union, or any other  
26 institution whose deposits are insured by an agency of the federal  
27 government.

1 (e) "Exclusive broker" means a person that brokers secondary  
2 mortgage loans solely to 1 licensee or registrant, is compensated  
3 solely by that licensee or registrant, and is indemnified by the  
4 licensee or registrant as provided in section 6. The actions or  
5 practices of an exclusive broker in brokering a secondary mortgage  
6 loan are the actions or practices of the licensee or registrant.

7 (f) "Executive officer" means an officer, member, or partner  
8 of a licensee or registrant. ~~, including~~ **THE TERM INCLUDES THE**  
9 chief executive officer, president, vice president, chief financial  
10 officer, controller, **OR** compliance officer, or **AN INDIVIDUAL**  
11 **HOLDING** any other similar position.

12 (g) "Financial licensing act" means ~~the consumer financial~~  
13 ~~services act, 1988 PA 161, MCL 487.2051 to 487.2072, and any act~~  
14 ~~listed~~ **ANY OF THE FINANCIAL LICENSING ACTS, AS THAT TERM IS DEFINED**  
15 in section 2 of the consumer financial services act, 1988 PA 161,  
16 MCL 487.2052.

17 (h) "Lender" means a person who, directly or indirectly, makes  
18 or offers to make secondary mortgage loans.

19 (i) "Licensee" means a person licensed or required to be  
20 licensed under this act. ~~A licensee does not include a depository~~  
21 ~~financial institution.~~

22 (j) "Loan servicing customer" means a mortgagor whose  
23 secondary mortgage loan is being serviced by a servicer.

24 (k) "Open-end credit" means credit extended under a plan in  
25 which both of the following apply:

26 (i) The licensee or registrant reasonably contemplates repeated  
27 transactions.

(ii) The amount of credit that may be extended to the borrower during the term of the plan is generally made available to the extent that any part of the outstanding balance is repaid.

(l) "ORIGINATE" MEANS ANY OF THE FOLLOWING:

(i) TO NEGOTIATE, ARRANGE, OR OFFER TO NEGOTIATE OR ARRANGE A SECONDARY MORTGAGE LOAN BETWEEN A LENDER AND 1 OR MORE INDIVIDUALS.

(ii) TO PLACE, ASSIST IN PLACING, OR FIND A SECONDARY MORTGAGE LOAN FOR 1 OR MORE INDIVIDUALS.

(M) ~~(l)~~ "Person" means an individual, corporation, **LIMITED LIABILITY COMPANY**, partnership, association, or other legal entity.

(N) ~~(m)~~ "Registrant" means a person **THAT IS** registered or required to be registered under this act. A registrant does not include a **REGISTER AS A BROKER, LENDER, OR SERVICER UNDER THIS ACT. THE TERM DOES NOT INCLUDE A SECONDARY MORTGAGE LOAN OFFICER REGISTRANT** OR depository financial institution.

(O) ~~(n)~~ "Secondary mortgage loan" means a loan that ~~is not to be repaid within 90 days,~~ **HAS A TERM OF 90 DAYS OR MORE;** that is made to a person for personal, family, or household purposes; ~~—~~and that is secured by a mortgage ~~upon~~ **ON** an interest in real property **THAT IS** used as a dwelling ~~if the property~~ **AND** is subject to a lien of 1 or more ~~prior~~ **OUTSTANDING** mortgages. ~~The~~ **A SECONDARY MORTGAGE** loan may be secured by other collateral in addition to real property. Notwithstanding the place of execution, nominal or real, of a secondary mortgage loan, if the real property that secures the loan is located in this state, ~~the~~ **A** secondary mortgage loan is subject to this act and all other applicable laws of this state.

(P) "SECONDARY MORTGAGE LOAN OFFICER" MEANS AN INDIVIDUAL WHO

1 IS AN EMPLOYEE OR AGENT OF A BROKER, LENDER, OR SERVICER; WHO  
 2 ORIGINATES SECONDARY MORTGAGE LOANS; AND WHO IS NOT AN EMPLOYEE OR  
 3 AGENT OF A DEPOSITORY FINANCIAL INSTITUTION OR A SUBSIDIARY OR  
 4 AFFILIATE OF A DEPOSITORY FINANCIAL INSTITUTION.

5 (Q) "SECONDARY MORTGAGE LOAN OFFICER REGISTRANT" MEANS EITHER  
 6 OF THE FOLLOWING:

7 (i) AN INDIVIDUAL WHO IS CURRENTLY REGISTERED UNDER SECTION 2A  
 8 OR 2C.

9 (ii) AN INDIVIDUAL WHO IS NOT REQUIRED TO REGISTER TO PERFORM  
 10 SERVICES OF A SECONDARY MORTGAGE LOAN OFFICER UNDER SECTION 2A(9).

11 (R) ~~(e)~~ "Service" means the collection or remittance for a  
 12 lender, noteowner, OR noteholder ~~, or the~~ A licensee's own account  
 13 of 4 or more installment payments of the principal OF, interest OF,  
 14 or an amount placed in escrow under a secondary mortgage loan,  
 15 mortgage servicing agreement, or an agreement with ~~the~~ A mortgagor.

16 (S) ~~(p)~~ "Servicer" means a person who, directly or indirectly,  
 17 services or offers to service secondary mortgage loans.

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

22 (a) The person is ~~solely performing~~ PROVIDING SECONDARY  
 23 MORTGAGE LOAN OFFICER services as an employee OR AGENT of only 1  
 24 broker, lender, or servicer AND IS REGISTERED AS A SECONDARY  
 25 MORTGAGE LOAN OFFICER REGISTRANT IF THAT REGISTRATION IS REQUIRED  
 26 UNDER THIS ACT.

27 (b) The person is an exclusive broker. THIS SUBDIVISION DOES

1 NOT APPLY AFTER MARCH 31, 2009.

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

4 (d) The person acts as a lender but makes or negotiates 2 or  
5 fewer secondary mortgage loans in a calendar year.

6 (e) The person acts as a servicer but services 10 or fewer  
7 secondary mortgage loans in a calendar year.

8 (f) The person is an individual and an employee of a  
9 professional employer organization, as that term is defined in  
10 ~~section 4 of the single business tax act, 1975 PA 228, MCL 208.4~~

11 **SECTION 113 OF THE MICHIGAN BUSINESS TAX ACT, 2007 PA 36, MCL**  
12 **208.1113**, solely acting as a secondary mortgage loan originator of  
13 only 1 broker or lender. The broker or lender shall do all of the  
14 following:

15 (i) Direct and control the activities of the individual under  
16 this act.

17 (ii) Be responsible for all activities of the individual and  
18 assume responsibility for the individual's actions that are covered  
19 by the proof of financial responsibility deposit required under  
20 section 6.

21 (2) By October 31, 1997, a servicer that was exempt from  
22 regulation under this act shall either file with the commissioner  
23 an application for a license or registration under section 3 or  
24 discontinue all activities subject to this act.

25 (3) Except for a state or nationally chartered bank, savings  
26 bank, or an affiliate of a bank or savings bank, a person subject  
27 to this act shall not include in its name or assumed name the words

"bank", "banker", "banc", "bankcorp", "bancorp", or any other words or phrases that would imply that the person is a bank, is engaged in the business of banking, or is affiliated with a bank or savings bank. It is not a violation of this subsection for a licensee to use the term "mortgage banker" or "mortgage banking" in its name or assumed name.

(4) A person subject to this act whose name or assumed name on January 1, 1997 contained a word prohibited by subsection (3) may continue to use that name or assumed name.

**SEC. 2A. (1) BEGINNING APRIL 1, 2009, AN EMPLOYEE OR AGENT OF A LICENSEE OR REGISTRANT, OTHER THAN AN INDIVIDUAL DESCRIBED IN SUBSECTION (9), SHALL NOT PERFORM SERVICES OF A SECONDARY MORTGAGE LOAN OFFICER UNLESS HE OR SHE REGISTERS OR OTHERWISE COMPLIES WITH THIS SECTION.**

**(2) BEGINNING APRIL 1, 2009, A LICENSEE OR REGISTRANT THAT EMPLOYS OR OFFERS TO EMPLOY, OR ENGAGES OR OFFERS TO ENGAGE AS AN AGENT, AN INDIVIDUAL, OTHER THAN AN INDIVIDUAL DESCRIBED IN SUBSECTION (9), AS A SECONDARY MORTGAGE LOAN OFFICER TO ORIGINATE SECONDARY MORTGAGE LOANS SHALL CONDUCT A CRIMINAL HISTORY CHECK OF THAT INDIVIDUAL. ALL OF THE FOLLOWING APPLY TO THE CRIMINAL HISTORY CHECK OF AN INDIVIDUAL REQUIRED UNDER THIS SUBSECTION:**

**(A) THE DEPARTMENT OF STATE POLICE AND THE FEDERAL BUREAU OF INVESTIGATION SHALL PERFORM THE CRIMINAL HISTORY CHECK REQUIRED UNDER THIS SUBSECTION.**

**(B) THE INDIVIDUAL WHO IS THE SUBJECT OF THE CRIMINAL HISTORY CHECK SHALL HAVE HIS OR HER FINGERPRINTS TAKEN BY A LAW ENFORCEMENT AGENCY OR BY ANOTHER PERSON THAT THE COMMISSIONER DETERMINES IS**

1 QUALIFIED TO TAKE FINGERPRINTS; PAY THE AGENCY OR PERSON THE FEES  
2 REQUIRED BY THE DEPARTMENT OF STATE POLICE UNDER SECTION 3 OF 1935  
3 PA 120, MCL 28.273, AND BY THE FEDERAL BUREAU OF INVESTIGATION, FOR  
4 PROCESSING FINGERPRINTS AND COMPLETING A CRIMINAL HISTORY CHECK;  
5 AND REQUEST THAT THE AGENCY OR PERSON FORWARD THE FINGERPRINTS, A  
6 REQUEST FOR A CRIMINAL HISTORY CHECK OF THE INDIVIDUAL IN THE  
7 FORMAT AND AS PRESCRIBED BY THE DEPARTMENT OF STATE POLICE, AND THE  
8 FEES TO THE DEPARTMENT OF STATE POLICE.

9 (C) THE DEPARTMENT OF STATE POLICE SHALL FORWARD THE  
10 FINGERPRINTS AND APPROPRIATE FEE TO THE FEDERAL BUREAU OF  
11 INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY CHECK.

12 (D) AFTER RECEIVING A PROPER REQUEST AND THE REQUIRED FEES  
13 UNDER THIS SUBSECTION, THE DEPARTMENT OF STATE POLICE SHALL CONDUCT  
14 THE CRIMINAL HISTORY CHECK AND PROVIDE THE LICENSEE OR REGISTRANT  
15 WITH THE RESULTS OF THE CRIMINAL HISTORY CHECK. THE RESULTS SHALL  
16 CONTAIN ANY CRIMINAL HISTORY RECORD INFORMATION CONCERNING THE  
17 INDIVIDUAL MAINTAINED BY THE DEPARTMENT OF STATE POLICE AND THE  
18 RESULTS OF THE FEDERAL BUREAU OF INVESTIGATION'S CRIMINAL HISTORY  
19 CHECK.

20 (E) THE LICENSEE OR REGISTRANT SHALL SUBMIT THE RESULTS OF THE  
21 CRIMINAL HISTORY CHECK DESCRIBED IN SUBDIVISION (D) TO THE  
22 COMMISSIONER WITH THE APPLICATION FOR SECONDARY MORTGAGE LOAN  
23 OFFICER REGISTRATION DESCRIBED IN SUBSECTION (4) OR FOR PURPOSES OF  
24 SUBSECTION (5).

25 (3) BEGINNING APRIL 1, 2009, IF AN INDIVIDUAL, OTHER THAN AN  
26 INDIVIDUAL DESCRIBED IN SUBSECTION (9), IS EMPLOYED OR ENGAGED AS  
27 AN AGENT TO ORIGINATE SECONDARY MORTGAGE LOANS BY A LICENSEE OR



1 REGISTRANT, THAT INDIVIDUAL SHALL APPLY FOR SECONDARY MORTGAGE LOAN  
2 OFFICER REGISTRATION UNDER THIS SECTION WITHIN 90 DAYS AFTER HE OR  
3 SHE BEGINS PROVIDING SERVICES AS AN EMPLOYEE OR AGENT OF THE  
4 LICENSEE OR REGISTRANT, BY SUBMITTING THE APPLICATION DESCRIBED IN  
5 SUBSECTION (4), IN WRITING, AND INCLUDING WITH THE APPLICATION THE  
6 ANNUAL OPERATING FEE ESTABLISHED UNDER SECTION 6A(6).

7 (4) THE COMMISSIONER SHALL PRESCRIBE THE FORM OF APPLICATION  
8 FOR REGISTRATION AS A SECONDARY MORTGAGE LOAN OFFICER. SUBJECT TO  
9 SUBSECTION (8), THE APPLICATION FORM SHALL REQUIRE THAT AN  
10 APPLICANT PROVIDE AT LEAST ALL OF THE FOLLOWING TO THE  
11 COMMISSIONER:

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

13 (B) A STATEMENT AS TO WHETHER THE APPLICANT HAS EVER BEEN  
14 CONVICTED OF, OR PLED NO CONTEST TO, ANY OF THE FOLLOWING:

15 (i) A MISDEMEANOR INVOLVING EMBEZZLEMENT, FORGERY, FRAUD, A  
16 FINANCIAL TRANSACTION, OR SECURITIES.

17 (ii) A FELONY.

18 (C) A STATEMENT AS TO WHETHER THE APPLICANT HAS HAD AN  
19 APPLICATION DENIED, OR A LICENSE, REGISTRATION, OR SIMILAR  
20 AUTHORITY REVOKED OR SUSPENDED, TO PRACTICE ANY PROFESSION OR  
21 OCCUPATION IN ANY JURISDICTION, INCLUDING, BUT NOT LIMITED TO,  
22 LICENSURE OR REGISTRATION AS A BROKER, LENDER, OR SERVICER IN WHICH  
23 THE APPLICANT HELD MORE THAN 25% OF THE OWNERSHIP INTEREST OR AS A  
24 SECONDARY MORTGAGE LOAN OFFICER.

25 (D) EXCEPT FOR AN APPLICATION DESCRIBED IN SUBSECTION (7),  
26 PROOF IN THE FORM OF A CERTIFICATE OF COMPLETION OR OTHER EVIDENCE  
27 ACCEPTABLE TO THE COMMISSIONER THAT THE APPLICANT HAS COMPLETED AT

1 LEAST 24 HOURS OF LIVE PROFESSIONAL CLASSROOM INSTRUCTION IN THIS  
2 STATE IN AN INTRODUCTORY COURSE IN RESIDENTIAL MORTGAGE LENDING  
3 THAT IS SPONSORED OR PROVIDED BY A PERSON, AND TAUGHT BY AN  
4 INSTRUCTOR, APPROVED BY THE COMMISSIONER. THE 24 HOURS OF  
5 INSTRUCTION SHALL INCLUDE AT LEAST 3 HOURS OF LIVE CLASSROOM  
6 INSTRUCTION CONCERNING STATE AND FEDERAL LAWS AND REGULATIONS  
7 GOVERNING RESIDENTIAL MORTGAGE LENDING, THE CONTENT OF WHICH HAS  
8 BEEN APPROVED BY THE COMMISSIONER.

9 (E) EVIDENCE ACCEPTABLE TO THE COMMISSIONER THAT THE APPLICANT  
10 CORRECTLY ANSWERED AT LEAST 75% OF THE QUESTIONS ON AN EXAMINATION  
11 APPROVED BY THE COMMISSIONER THAT TESTS AN APPLICANT'S KNOWLEDGE OF  
12 THE CONTENTS OF THE INTRODUCTORY COURSE IN RESIDENTIAL MORTGAGE  
13 LENDING DESCRIBED IN SUBDIVISION (D).

14 (F) THE RESULTS OF THE CRIMINAL HISTORY CHECK DESCRIBED IN  
15 SUBSECTION (2).

16 (G) THE SIGNATURE OF THE APPLICANT, AND HIS OR HER  
17 DECLARATION, MADE UNDER PENALTIES OF PERJURY, THAT THE INFORMATION  
18 AND STATEMENTS MADE IN OR INCLUDED WITH THE APPLICATION ARE TRUE,  
19 ACCURATE, AND COMPLETE.

20 (H) THE SIGNATURE OF AN OFFICER ON BEHALF OF THE LICENSEE OR  
21 REGISTRANT THAT EMPLOYS OR OFFERS TO EMPLOY, OR ENGAGES OR OFFERS  
22 TO ENGAGE AS AN AGENT, THE APPLICANT, AND THE OFFICER'S DECLARATION  
23 ON BEHALF OF THE LICENSEE OR REGISTRANT, MADE UNDER PENALTIES OF  
24 PERJURY, THAT THE INFORMATION AND STATEMENTS IN OR INCLUDED WITH  
25 THE APPLICATION ARE TRUE, ACCURATE, AND COMPLETE TO THE BEST OF HIS  
26 OR HER KNOWLEDGE AND BELIEF.

27 (I) ANY OTHER INFORMATION REQUIRED BY THE COMMISSIONER.

1 (5) BEGINNING APRIL 1, 2009, AN APPLICANT FOR SECONDARY  
2 MORTGAGE LOAN OFFICER REGISTRATION MAY PERFORM SERVICES AS A  
3 SECONDARY MORTGAGE LOAN OFFICER WHILE HIS OR HER APPLICATION IS  
4 PENDING IF ALL OF THE FOLLOWING ARE MET:

5 (A) THE LICENSEE OR REGISTRANT THAT IS THE EMPLOYER OR  
6 PRINCIPAL OF THE APPLICANT HAS COMPLETED THE CRIMINAL HISTORY CHECK  
7 OF THE APPLICANT DESCRIBED IN SUBSECTION (2) AND SUBMITTED THE  
8 RESULTS OF THAT CRIMINAL HISTORY CHECK TO THE COMMISSIONER.

9 (B) THE CRIMINAL HISTORY CHECK DESCRIBED IN SUBDIVISION (A)  
10 DOES NOT DISCLOSE THAT THE APPLICANT HAS BEEN CONVICTED OF, OR PLED  
11 NO CONTEST TO, ANY OF THE FOLLOWING:

12 (i) A FELONY OR MISDEMEANOR INVOLVING EMBEZZLEMENT, FORGERY,  
13 FRAUD, A FINANCIAL TRANSACTION, OR SECURITIES.

14 (ii) WITHIN THE 10-YEAR PERIOD PRECEDING THE DATE OF THE  
15 APPLICATION, A FELONY OTHER THAN A FELONY DESCRIBED IN SUBPARAGRAPH  
16 (i) .

17 (C) THE LICENSEE OR REGISTRANT THAT IS THE EMPLOYER OR  
18 PRINCIPAL OF THE APPLICANT HAS PROVIDED THE COMMISSIONER WITH  
19 WRITTEN NOTICE THAT THE APPLICANT IS BEGINNING TO PROVIDE SERVICES  
20 AS A SECONDARY MORTGAGE LOAN OFFICER FOR THE LICENSEE OR  
21 REGISTRANT.

22 (6) THE COMMISSIONER SHALL NOT ISSUE A REGISTRATION TO ANY OF  
23 THE FOLLOWING:

24 (A) AN APPLICANT WHO HAS BEEN CONVICTED OF, OR PLED NO CONTEST  
25 TO, ANY OF THE FOLLOWING:

26 (i) A FELONY OR MISDEMEANOR INVOLVING EMBEZZLEMENT, FORGERY,  
27 FRAUD, A FINANCIAL TRANSACTION, OR SECURITIES.

1           (ii) WITHIN THE 10-YEAR PERIOD PRECEDING THE DATE OF THE  
2 APPLICATION, A FELONY OTHER THAN A FELONY DESCRIBED IN SUBPARAGRAPH  
3 (i) .

4           (B) AN APPLICANT AGAINST WHOM THE COMMISSIONER HAS ISSUED A  
5 PROHIBITION ORDER UNDER SECTION 14A.

6           (C) AN APPLICANT FOR WHOM THE COMMISSIONER HAS NOT RECEIVED  
7 THE RESULTS OF THE CRIMINAL HISTORY CHECK DESCRIBED IN SUBSECTION  
8 (2) .

9           (D) AN INDIVIDUAL DESCRIBED IN SUBSECTION (9) .

10          (7) THE COMMISSIONER MUST REGISTER A SECONDARY MORTGAGE LOAN  
11 OFFICER WHO MEETS ALL OF THE FOLLOWING:

12          (A) FOR THE 5-YEAR PERIOD IMMEDIATELY PRECEDING THE EFFECTIVE  
13 DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION, HE OR SHE WAS  
14 EMPLOYED OR ENGAGED AS A SECONDARY MORTGAGE LOAN OFFICER FOR AT  
15 LEAST 4-1/2 YEARS BY 1 OR MORE LICENSEES, REGISTRANTS, OR PERSONS  
16 EXEMPT FROM THIS ACT UNDER SECTION 29 OR 29A.

17          (B) HE OR SHE WAS NOT THE SUBJECT OF ANY PROHIBITION ORDERS  
18 ISSUED BY THE COMMISSIONER UNDER SECTION 14A IN THE 5-YEAR PERIOD  
19 IMMEDIATELY PRECEDING THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT  
20 ADDED THIS SECTION.

21          (C) WITHIN 8 MONTHS AFTER THE EFFECTIVE DATE OF THE AMENDATORY  
22 ACT THAT ADDED THIS SECTION, HE OR SHE TAKES THE EXAMINATION  
23 DESCRIBED IN SUBSECTION (4) (E) AND CORRECTLY ANSWERS AT LEAST 75%  
24 OF THE QUESTIONS ON THE EXAMINATION.

25          (D) WITHIN 8 MONTHS AFTER THE EFFECTIVE DATE OF THE AMENDATORY  
26 ACT THAT ADDED THIS SECTION, HE OR SHE SUBMITS AN APPLICATION UNDER  
27 SUBSECTION (4) . HOWEVER, THE APPLICANT IS NOT REQUIRED TO COMPLETE

1 OR SUBMIT PROOF OF COMPLETION OF THE INSTRUCTION DESCRIBED IN  
2 SUBSECTION (4) (D) .

3 (E) HE OR SHE IS NOT AN APPLICANT DESCRIBED IN SUBSECTION (6) .

4 (8) THE COMMISSIONER MAY WAIVE ANY OF THE REQUIREMENTS OF THIS  
5 SECTION FOR SECONDARY MORTGAGE LOAN OFFICER REGISTRATION IF THE  
6 APPLICANT HAS A VALID, SIMILAR LICENSE OR REGISTRATION FROM ANOTHER  
7 STATE THAT HAS A RECIPROCAL AGREEMENT WITH THE COMMISSIONER, EXCEPT  
8 SUBSECTION (6) (A) AND (C) .

9 (9) BEGINNING APRIL 1, 2009, AN INDIVIDUAL WHO MEETS ALL OF  
10 THE FOLLOWING MAY PERFORM SERVICES OF A SECONDARY MORTGAGE LOAN  
11 OFFICER WITHOUT REGISTERING UNDER OR OTHERWISE COMPLYING WITH THIS  
12 SECTION:

13 (A) IS AN EMPLOYEE OR AGENT OF A BROKER, LENDER, OR SERVICER  
14 THAT IS ALSO A MORTGAGE BROKER, MORTGAGE LENDER, OR MORTGAGE  
15 SERVICER UNDER THE MORTGAGE BROKERS, LENDERS, AND SERVICERS  
16 LICENSING ACT, 1987 PA 173, MCL 445.1651 TO 445.1684 .

17 (B) IS CURRENTLY REGISTERED AS A LOAN OFFICER UNDER THE  
18 MORTGAGE BROKERS, LENDERS, AND SERVICERS LICENSING ACT, 1987 PA  
19 173, MCL 445.1651 TO 445.1684 .

20 (10) AN INDIVIDUAL DESCRIBED IN SUBSECTION (9) IS CONSIDERED A  
21 SECONDARY MORTGAGE LOAN OFFICER REGISTRANT FOR PURPOSES OF THIS  
22 ACT .

23 SEC. 2B. (1) THE COMMISSIONER MAY DISCLOSE, PROVIDE, OR MAKE  
24 AVAILABLE TO THE PUBLIC THE NAMES, BUSINESS ADDRESSES, AND BUSINESS  
25 TELEPHONE NUMBERS OF SECONDARY MORTGAGE LOAN OFFICER REGISTRANTS.  
26 THE COMMISSIONER SHALL NOT DISCLOSE, PROVIDE, OR MAKE AVAILABLE TO  
27 THE PUBLIC ANY OTHER PERSONAL IDENTIFYING INFORMATION ABOUT

1 SECONDARY MORTGAGE LOAN OFFICER REGISTRANTS OR APPLICANTS FOR  
2 SECONDARY MORTGAGE LOAN OFFICER REGISTRATION.

3 (2) BEGINNING APRIL 1, 2009, AN INDIVIDUAL EMPLOYED OR ENGAGED  
4 AS AN AGENT BY A LICENSEE OR REGISTRANT AS A SECONDARY MORTGAGE  
5 LOAN OFFICER SHALL NOT USE THE TITLE OR DESIGNATION "LOAN OFFICER",  
6 "LOAN ORIGINATOR", "MORTGAGE LOAN OFFICER", "MORTGAGE LOAN  
7 ORIGINATOR", "SECONDARY MORTGAGE LOAN OFFICER", OR "SECONDARY  
8 MORTGAGE LOAN ORIGINATOR" IF HE OR SHE IS NOT A SECONDARY MORTGAGE  
9 LOAN OFFICER REGISTRANT. A SECONDARY MORTGAGE LOAN OFFICER  
10 REGISTRANT AND THE EMPLOYER OR PRINCIPAL OF A SECONDARY MORTGAGE  
11 LOAN OFFICER REGISTRANT SHALL NOT USE THE WORD "REGISTERED",  
12 "CERTIFIED", OR ANY WORD OF SIMILAR IMPORT IN HIS OR HER TITLE OR  
13 DESIGNATION TO IDENTIFY HIM OR HER AS AN INDIVIDUAL WHO HAS MET THE  
14 REGISTRATION REQUIREMENTS OF THIS ACT UNLESS USE OF THAT WORD IS  
15 APPROVED BY THE OFFICE OF FINANCIAL AND INSURANCE REGULATION.

16 (3) BEGINNING APRIL 1, 2009, A SECONDARY MORTGAGE LOAN OFFICER  
17 SHALL NOT DIRECTLY OR INDIRECTLY RECEIVE ANY COMPENSATION,  
18 COMMISSION, FEE, POINTS, OR OTHER REMUNERATION OR BENEFITS FOR  
19 ORIGINATING A SECONDARY MORTGAGE LOAN UNLESS BOTH OF THE FOLLOWING  
20 ARE MET:

21 (A) THE SECONDARY MORTGAGE LOAN OFFICER IS A SECONDARY  
22 MORTGAGE LOAN OFFICER REGISTRANT.

23 (B) THE COMPENSATION, COMMISSION, FEE, POINTS, OR OTHER  
24 REMUNERATION OR BENEFITS ARE PAID BY THE LICENSEE OR REGISTRANT FOR  
25 WHICH THE SECONDARY MORTGAGE LOAN OFFICER ORIGINATED THAT SECONDARY  
26 MORTGAGE LOAN.

27 (4) BEGINNING APRIL 1, 2009, A BROKER, LENDER, OR SERVICER

1 SHALL NOT DIRECTLY OR INDIRECTLY PAY ANY COMPENSATION, COMMISSION,  
2 FEE, POINTS, OR OTHER REMUNERATION OR BENEFITS TO ANY OF THE  
3 FOLLOWING:

4 (A) A SECONDARY MORTGAGE LOAN OFFICER WHO IS NOT A SECONDARY  
5 MORTGAGE LOAN OFFICER REGISTRANT.

6 (B) A SECONDARY MORTGAGE LOAN OFFICER REGISTRANT WHO IS NOT AN  
7 EMPLOYEE OR AGENT OF THAT BROKER, LENDER, OR SERVICER. AS USED IN  
8 THIS SUBDIVISION, "EMPLOYEE" MEANS THAT TERM AS DEFINED IN SECTION  
9 3401 OF THE INTERNAL REVENUE CODE, 26 USC 3401.

10 SEC. 2C. (1) A SECONDARY MORTGAGE LOAN OFFICER REGISTRATION IS  
11 VALID FOR 1 CALENDAR YEAR AND TERMINATES ON DECEMBER 31 UNLESS IT  
12 IS RENEWED ON OR BEFORE THAT DATE.

13 (2) SUBJECT TO SUBSECTION (6), TO RENEW THE SECONDARY MORTGAGE  
14 LOAN OFFICER REGISTRATIONS OF ANY EMPLOYEES OR AGENTS OF A LICENSEE  
15 OR REGISTRANT, THE LICENSEE OR REGISTRANT SHALL SUBMIT AN  
16 APPLICATION FOR RENEWAL BEFORE DECEMBER 1 OF THE YEAR OF THE  
17 CURRENT SECONDARY MORTGAGE LOAN OFFICER REGISTRATIONS. THE LICENSEE  
18 OR REGISTRANT SHALL INCLUDE WITH THE APPLICATION THE ANNUAL  
19 OPERATING FEE ESTABLISHED IN SECTION 6A(6) FOR EACH SECONDARY  
20 MORTGAGE LOAN OFFICER REGISTRANT INCLUDED IN THE APPLICATION.

21 (3) THE COMMISSIONER SHALL PRESCRIBE THE FORM OF THE  
22 APPLICATION FOR RENEWAL OF SECONDARY MORTGAGE LOAN OFFICER  
23 REGISTRATIONS UNDER SUBSECTION (2) AND THE PROCESS FOR SUBMITTING  
24 AN APPLICATION FOR RENEWAL. THE APPLICATION FORM SHALL REQUIRE THAT  
25 AN APPLICANT PROVIDE AT LEAST ALL OF THE FOLLOWING INFORMATION  
26 ABOUT EACH SECONDARY MORTGAGE LOAN OFFICER REGISTRANT INCLUDED IN  
27 THE APPLICATION FOR RENEWAL:

1 (A) THE NAME, ADDRESS, AND CURRENT LICENSE OR REGISTRATION  
2 NUMBER OF THE APPLICANT.

3 (B) THE NAME AND HOME ADDRESS OF THE SECONDARY MORTGAGE LOAN  
4 OFFICER REGISTRANT.

5 (C) THE CURRENT REGISTRATION NUMBER OF THE SECONDARY MORTGAGE  
6 LOAN OFFICER REGISTRANT.

7 (D) A STATEMENT AS TO WHETHER THE SECONDARY MORTGAGE LOAN  
8 OFFICER REGISTRANT HAS HAD AN APPLICATION DENIED, OR A LICENSE,  
9 REGISTRATION, OR SIMILAR AUTHORITY REVOKED OR SUSPENDED, TO  
10 PRACTICE ANY PROFESSION OR OCCUPATION IN ANY JURISDICTION,  
11 INCLUDING, BUT NOT LIMITED TO, LICENSURE OR REGISTRATION AS A  
12 BROKER, LENDER, OR SERVICER IN WHICH THE SECONDARY MORTGAGE LOAN  
13 OFFICER REGISTRANT HELD MORE THAN 25% OF THE OWNERSHIP INTEREST OR  
14 AS A SECONDARY MORTGAGE LOAN OFFICER.

15 (E) EXCEPT AS PROVIDED IN SUBSECTION (7), PROOF ACCEPTABLE TO  
16 THE COMMISSIONER THAT THE SECONDARY MORTGAGE LOAN OFFICER  
17 REGISTRANT HAS IN THE IMMEDIATELY PRECEDING CALENDAR YEAR COMPLETED  
18 AT LEAST 6 HOURS OF INSTRUCTION IN A COURSE OR COURSES RELEVANT TO  
19 THE RESIDENTIAL MORTGAGE LENDING INDUSTRY, THE CONTENT OF WHICH HAS  
20 BEEN APPROVED BY THE COMMISSIONER. THE 6 HOURS OF INSTRUCTION SHALL  
21 INCLUDE AT LEAST 1.5 HOURS RELATED TO LEGAL AND REGULATORY  
22 COMPLIANCE AND AT LEAST 1 HOUR RELATED TO ETHICS AND FRAUD  
23 PREVENTION. ALL OF THE FOLLOWING APPLY TO THE COURSE OR COURSES  
24 DESCRIBED IN THIS SUBDIVISION:

25 (i) A COURSE MAY UTILIZE A LIVE INSTRUCTOR OR BE CONDUCTED BY  
26 ELECTRONIC MEANS, INCLUDING, BUT NOT LIMITED TO, THE INTERNET,  
27 DIGITAL BROADCAST, OR SATELLITE NETWORK. HOWEVER, A COURSE



1 CONDUCTED BY ELECTRONIC MEANS MUST INCLUDE A METHOD OF CONFIRMING A  
2 SECONDARY MORTGAGE LOAN OFFICER REGISTRANT'S COMPLETION OF THE  
3 COURSE.

4 (ii) THE COURSE MUST BE PROVIDED BY A PERSON APPROVED BY THE  
5 COMMISSIONER.

6 (F) ANY OTHER INFORMATION REQUIRED BY THE COMMISSIONER.

7 (4) BEFORE A LICENSEE OR REGISTRANT SUBMITS AN APPLICATION FOR  
8 RENEWAL OF A SECONDARY MORTGAGE LOAN OFFICER REGISTRATION FOR A  
9 SECONDARY MORTGAGE LOAN OFFICER REGISTRANT UNDER SUBSECTION (2),  
10 THE SECONDARY MORTGAGE LOAN OFFICER REGISTRANT SHALL PROVIDE AN  
11 AFFIDAVIT TO THE LICENSEE OR REGISTRANT THAT DISCLOSES ANY CRIMINAL  
12 CONVICTION OF OR PLEA OF NO CONTEST BY THE SECONDARY MORTGAGE LOAN  
13 OFFICER REGISTRANT OCCURRING BETWEEN 1 OF THE FOLLOWING, AS  
14 APPLICABLE, AND THE DATE OF THE AFFIDAVIT:

15 (A) IF THE RENEWAL APPLICATION IS FOR THE SECONDARY MORTGAGE  
16 LOAN OFFICER REGISTRANT'S FIRST RENEWAL OF HIS OR HER SECONDARY  
17 MORTGAGE LOAN OFFICER REGISTRATION, THE DATE OF THE BACKGROUND  
18 RECORDS CHECK PROVIDED AT THE TIME OF HIS OR HER INITIAL  
19 REGISTRATION.

20 (B) IF THE RENEWAL APPLICATION IS FOR THE SECONDARY MORTGAGE  
21 LOAN OFFICER REGISTRANT'S SECOND OR SUBSEQUENT RENEWAL OF HIS OR  
22 HER SECONDARY MORTGAGE LOAN OFFICER REGISTRATION, THE DATE OF THE  
23 MOST RECENT AFFIDAVIT PROVIDED BY THE SECONDARY MORTGAGE LOAN  
24 OFFICER REGISTRANT TO THE LICENSEE OR REGISTRANT UNDER THIS  
25 SUBSECTION.

26 (5) THE COMMISSIONER SHALL NOT RENEW THE SECONDARY MORTGAGE  
27 LOAN OFFICER REGISTRATION OF ANY SECONDARY MORTGAGE LOAN OFFICER

1 WHO HAS EVER BEEN CONVICTED OF, OR PLED NO CONTEST TO, ANY OF THE  
2 FOLLOWING:

3 (A) A FELONY OR MISDEMEANOR INVOLVING EMBEZZLEMENT, FORGERY,  
4 FRAUD, A FINANCIAL TRANSACTION, OR SECURITIES.

5 (B) WITHIN THE 10-YEAR PERIOD PRECEDING THE DATE OF THE  
6 APPLICATION FOR RENEWAL, A FELONY OTHER THAN A FELONY DESCRIBED IN  
7 SUBDIVISION (A).

8 (6) IF AN INDIVIDUAL INCLUDED IN AN APPLICATION FOR RENEWAL  
9 UNDER SUBSECTION (2) IS NOT CURRENTLY REGISTERED AND HIS OR HER  
10 SECONDARY MORTGAGE LOAN OFFICER REGISTRATION HAS NOT BEEN RENEWED  
11 FOR A PERIOD OF MORE THAN 5 CONSECUTIVE CALENDAR YEARS, THE  
12 INDIVIDUAL MUST APPLY FOR A SECONDARY MORTGAGE LOAN OFFICER  
13 REGISTRATION UNDER SECTION 2B AS A NEW APPLICANT. THE APPLICANT MAY  
14 INCLUDE IN A RENEWAL APPLICATION UNDER SUBSECTION (2) A REQUEST TO  
15 RENEW THE SECONDARY MORTGAGE LOAN OFFICER REGISTRATION FOR A  
16 SECONDARY MORTGAGE LOAN OFFICER REGISTRANT WHO IS NOT CURRENTLY  
17 REGISTERED IF HIS OR HER SECONDARY MORTGAGE LOAN OFFICER  
18 REGISTRATION HAS NOT BEEN RENEWED FOR A PERIOD OF FEWER THAN 5  
19 CONSECUTIVE YEARS.

20 (7) AN APPLICANT UNDER SUBSECTION (2) FOR RENEWAL OF THE  
21 SECONDARY MORTGAGE LOAN OFFICER REGISTRATION OF A SECONDARY  
22 MORTGAGE LOAN OFFICER REGISTRANT WHO HAS A VALID, SIMILAR LICENSE  
23 OR REGISTRATION FROM ANOTHER STATE THAT HAS INSTRUCTIONAL  
24 PROCEDURES AND REQUIREMENTS FOR SECONDARY MORTGAGE LOAN OFFICERS  
25 APPROVED BY THE COMMISSIONER MAY SATISFY SUBSECTION (3)(E) BY  
26 SUBMITTING PROOF THAT HE OR SHE IS IN COMPLIANCE WITH THE  
27 INSTRUCTIONAL REQUIREMENTS OF THAT STATE AT THE TIME OF

1 APPLICATION.

2 SEC. 2D. (1) A SECONDARY MORTGAGE LOAN OFFICER REGISTRANT  
3 SHALL PROVIDE WRITTEN NOTICE TO THE COMMISSIONER WITHIN 10 DAYS  
4 AFTER ANY OF THE FOLLOWING OCCUR:

5 (A) HIS OR HER EMPLOYMENT OR AGENCY RELATIONSHIP WITH A  
6 LICENSEE OR REGISTRANT IS TERMINATED.

7 (B) HE OR SHE BEGINS EMPLOYMENT OR AN AGENCY RELATIONSHIP WITH  
8 A LICENSEE OR REGISTRANT.

9 (C) THERE IS A CHANGE IN THE HOME ADDRESS OR ANY PERSONAL  
10 TELEPHONE NUMBER OR PERSONAL ELECTRONIC MAIL ADDRESS HE OR SHE  
11 PREVIOUSLY PROVIDED TO THE COMMISSIONER.

12 (D) HE OR SHE IS CONVICTED OF OR PLEADS GUILTY OR NO CONTEST  
13 TO ANY OF THE FOLLOWING:

14 (i) A MISDEMEANOR INVOLVING EMBEZZLEMENT, FORGERY, FRAUD, A  
15 FINANCIAL TRANSACTION, OR SECURITIES.

16 (ii) A FELONY.

17 (2) A LICENSEE OR REGISTRANT SHALL PROVIDE WRITTEN NOTICE TO  
18 THE COMMISSIONER WITHIN 20 DAYS AFTER HIRING OR ENGAGING AN  
19 INDIVIDUAL AS A SECONDARY MORTGAGE LOAN OFFICER OR TERMINATING THE  
20 EMPLOYMENT OF OR AGENCY RELATIONSHIP WITH A SECONDARY MORTGAGE LOAN  
21 OFFICER.

22 Sec. 6. (1) Except as otherwise provided in this section, at  
23 the time of filing an application for a license or registration or  
24 renewal of a license or registration, an applicant shall do all of  
25 the following:

26 (a) Provide proof of financial responsibility in the following  
27 amounts:

1           (i) \$25,000.00 for a license or registration to act as a broker  
2 who receives funds from a prospective borrower before the closing  
3 of the secondary mortgage loan or who acts as a lender. ~~An~~  
4 ~~additional \$20,000.00 is required for each exclusive broker through~~  
5 ~~which the applicant conducts business regulated by this act. In no~~  
6 ~~event shall the additional amount required by this subsection be in~~  
7 ~~excess of \$1,000,000.00.~~

8           (ii) \$125,000.00 for a license or registration to act as a  
9 servicer. ~~An additional \$20,000.00 is required for each exclusive~~  
10 ~~broker through which the applicant conducts business regulated by~~  
11 ~~this act. In no event shall the additional amount required by this~~  
12 ~~subsection be in excess of \$1,000,000.00.~~

13           (iii) **AN ADDITIONAL \$20,000.00 IS REQUIRED FROM AN APPLICANT**  
14 **DESCRIBED IN SUBPARAGRAPH (i) OR (ii) FOR EACH EXCLUSIVE BROKER**  
15 **THROUGH WHICH THAT APPLICANT CONDUCTS BUSINESS REGULATED UNDER THIS**  
16 **ACT. HOWEVER, THE AGGREGATE OF THE ADDITIONAL AMOUNTS REQUIRED FROM**  
17 **AN APPLICANT UNDER THIS SUBDIVISION SHALL NOT EXCEED \$1,000,000.00.**  
18 **THIS SUBPARAGRAPH DOES NOT APPLY AFTER MARCH 31, 2009.**

19           (b) Provide proof of financial responsibility by 1 of the  
20 following:

21           (i) A corporate surety bond payable to the commissioner ~~which~~  
22 **THAT** expires no earlier than the date the license or registration  
23 expires, executed by a corporate surety approved by the  
24 commissioner.

25           (ii) An irrevocable letter of credit upon which the applicant  
26 for a license or registration is the obligor, ~~which~~ **THAT** expires  
27 no earlier than the date the license or registration expires, **THAT**

1 ~~IS~~ issued by a depository financial institution, ~~with terms~~ **AND THE**  
2 **TERMS OF WHICH ARE** approved by the commissioner.

3 (2) A licensee or registrant that conducts business regulated  
4 by this act through 1 or more exclusive brokers shall enter into an  
5 indemnification agreement, subject to the approval of the  
6 commissioner, to protect borrowers from monetary damages that may  
7 result from doing business with the exclusive brokers through which  
8 the licensee or registrant conducts business regulated by this act.  
9 The indemnification shall be provided in the amount and form  
10 required ~~by~~ **UNDER** subsection (1). **THIS SUBSECTION DOES NOT APPLY**  
11 **AFTER MARCH 31, 2009.**

12 (3) The bond or letter of credit required under subsection (1)  
13 shall be conditioned upon the licensee or registrant conducting its  
14 business as required ~~by~~ **UNDER** this act and all the rules  
15 promulgated under this act, and the payment of all money that  
16 becomes due to borrowers, secondary mortgage loan applicants, and  
17 the commissioner.

18 (4) The commissioner shall prioritize and pay claims against a  
19 proof of financial responsibility filed with the commissioner under  
20 this section in a manner that, in his or her discretion, best  
21 protects the public interest.

22 (5) Claims may only be filed against a ~~licensee's or~~  
23 ~~registrant's~~ proof of financial responsibility **FILED WITH THE**  
24 **COMMISSIONER UNDER THIS SECTION** by the commissioner and the  
25 licensee's or registrant's borrowers, secondary mortgage loan  
26 applicants, and loan servicing customers.

27 (6) Claims filed against a proof of financial responsibility

1 **FILED WITH THE COMMISSIONER UNDER THIS SECTION** by a borrower or  
2 loan applicant shall involve only secondary mortgage loans or  
3 secondary mortgage loan applications secured or to be secured by  
4 real property used as a dwelling located in this state. The amount  
5 of the claim shall not exceed actual fees in connection with a loan  
6 application, overcharges of principal and interest, and excess  
7 escrow collections by the licensee or registrant.

8 (7) The commissioner may file a claim against a proof of  
9 financial responsibility **FILED WITH THE COMMISSIONER UNDER THIS**  
10 **SECTION** for payment of fines or fees due and payable to the  
11 commissioner and reimbursement of expenses incurred in  
12 investigating the licensee or registrant and expenses incurred in  
13 distributing proceeds of the proof of financial responsibility. A  
14 claim filed under this subsection shall be paid in full prior to  
15 payment of other claims against a proof of financial  
16 responsibility, unless the commissioner, in his or her discretion,  
17 waives in whole or in part the right to priority of payment.

18 (8) In the event that valid claims exceed the amount of ~~the~~ **A**  
19 proof of financial responsibility **FILED WITH THE COMMISSIONER UNDER**  
20 **THIS SECTION**, each claimant shall be entitled only to a pro rata  
21 amount of his or her valid claim.

22 (9) A licensee that acts as a broker and that receives funds  
23 from a prospective borrower before the closing of the secondary  
24 mortgage loan shall maintain a net worth of not less than  
25 \$25,000.00. A licensee that acts as a lender shall maintain a net  
26 worth of not less than \$25,000.00. A licensee that acts as a  
27 servicer shall maintain a net worth of not less than \$100,000.00.

1           (10) Net worth under subsection (9) ~~shall be~~ **IS** determined at  
2 the conclusion of the fiscal year of the licensee immediately  
3 preceding the date an application for a license, or renewal of a  
4 license, is submitted to the commissioner. ~~Net worth shall be~~  
5 ~~disclosed~~ **AN APPLICANT SHALL DISCLOSE ITS NET WORTH** on a form  
6 prescribed by the commissioner or on a form prepared or reviewed by  
7 a certified public accountant and ~~shall be computed~~ in accordance  
8 with generally accepted accounting principles. The following assets  
9 ~~shall be~~ **ARE** excluded in the computation of net worth:

10           (a) That portion of an applicant's assets pledged to secure  
11 obligations of any person other than ~~that of~~ the applicant.

12           (b) An asset, except **A** construction loans receivable, secured  
13 by mortgages from related companies, due from officers or  
14 stockholders of the applicant or persons in which the applicant's  
15 officers or stockholders have an interest.

16           (c) An amount in excess of the lower of the cost or market  
17 value of mortgage loans in foreclosure, or real property acquired  
18 through foreclosure.

19           (d) An investment shown on the balance sheet in joint  
20 ventures, subsidiaries, or affiliates, ~~which~~ **THAT** is greater than  
21 the market value of the assets.

22           (e) Good will or value placed on insurance renewals or  
23 property management contract renewals or other similar intangible  
24 value.

25           (f) Organization costs.

26           Sec. 6a. (1) A registration or license, unless it is renewed,  
27 ~~shall expire~~ **EXPIRES** on December 31 of each year. A **PERSON MAY**

1 **RENEW** A registration or license ~~may be renewed by~~ filing an  
2 application for license or registration renewal and paying the  
3 annual operating fee for the succeeding year. The application and  
4 payment shall be received by the commissioner on ~~or before~~ ~~December 15 of each year~~ **A DATE PRESCRIBED BY THE COMMISSIONER.**

6 (2) Not later than 90 days after close of the fiscal year of a  
7 licensee or registrant, the licensee or registrant shall annually  
8 deliver to the commissioner a financial statement for the fiscal  
9 year prepared from the licensee's or registrant's books and  
10 records. At the licensee's or registrant's option, the financial  
11 statement may be any of the following:

12 (a) On a form prescribed by the commissioner.

13 (b) A report substantially similar to the form prescribed by  
14 the commissioner, which the licensee or registrant represents to  
15 the commissioner to be true and complete.

16 (c) In a format prepared and certified by an independent  
17 certified public accountant licensed by a regulatory authority of  
18 any state or political subdivision of the United States.

19 (3) A registrant that is a licensee or registrant under the  
20 mortgage brokers, lenders, and servicers licensing act, 1987 PA  
21 173, MCL 445.1651 to 445.1684, and that timely files with the  
22 commissioner the financial statement required under section 7 of  
23 the mortgage brokers, lenders, and servicers licensing act, 1987 PA  
24 173, MCL 445.1657, is exempt from the filing requirement of  
25 subsection (2).

26 (4) At the time of making an initial application for a license  
27 under this act, and at the time of making the first application for



1 a license after the suspension or revocation of a license, ~~the~~ **AN**  
 2 applicant for a license shall pay to the commissioner a fee for  
 3 investigating the applicant for a license and the annual operating  
 4 fee established by the commissioner under subsection (5). To renew  
 5 a license or registration that has not been suspended or revoked,  
 6 the applicant shall only pay to the commissioner the annual  
 7 operating fee.

8 (5) If ~~the~~ **AN** initial license or registration ~~would~~ **DESCRIBED**  
 9 **IN SUBSECTION (4) WILL** have an effective date of July 1 or later,  
 10 the initial annual operating fee for that license ~~shall be~~ **IS** 1/2  
 11 of the annual operating fee.

12 (6) The commissioner shall annually establish a schedule of  
 13 fees **THAT ARE** sufficient to pay, but not to exceed, the ~~financial~~  
 14 ~~institutions bureau's~~ reasonably anticipated costs of **THE OFFICE OF**  
 15 **FINANCIAL AND INSURANCE REGULATION FOR** administering **AND ENFORCING**  
 16 this act. The fee schedule ~~is as follows~~ **SHALL INCLUDE ALL OF THE**  
 17 **FOLLOWING:**

18 (a) For the investigation of an applicant for a license, **A FEE**  
 19 **OF** not less than \$400.00 or more than \$1,000.00.

20 (b) ~~An~~ **SUBJECT TO SUBSECTION (5), AN** annual operating fee **FOR**  
 21 **EACH LICENSEE OR REGISTRANT,** based upon the number of secondary  
 22 mortgage loans the licensee or registrant brokered to other parties  
 23 that were closed during the previous calendar year, the number of  
 24 secondary mortgage loans closed by the licensee or registrant  
 25 during the previous calendar year, and the dollar volume of  
 26 secondary mortgage loans serviced by the licensee or registrant as  
 27 of December 31 of the previous calendar year. The annual operating

1 fee set by the commissioner under this subsection shall be based  
2 upon information in reports filed under subsection (13).

3 (c) For amending or reissuing a license, ~~or~~ registration, **OR**  
4 **SECONDARY MORTGAGE LOAN OFFICER REGISTRATION, A FEE OF** not less  
5 than ~~\$50.00~~ **\$15.00** or more than \$200.00.

6 (d) A licensee or registrant shall pay the actual travel,  
7 lodging, and meal expenses incurred by employees of the ~~financial~~  
8 ~~institutions bureau~~ **OFFICE OF FINANCIAL AND INSURANCE REGULATION**  
9 who travel out of state to examine or investigate the records of  
10 the licensee or registrant and the cost of independent  
11 investigators employed under section 6b(3)(e).

12 **(E) AN ANNUAL FEE FROM OR ON BEHALF OF EACH SECONDARY MORTGAGE**  
13 **LOAN OFFICER REGISTRANT IN AN AMOUNT ESTABLISHED BY THE**  
14 **COMMISSIONER. FOR PURPOSES OF THIS SUBDIVISION, THE COMMISSIONER**  
15 **SHALL ESTABLISH AN AMOUNT FOR THE ANNUAL FEE THAT IS SUFFICIENT TO**  
16 **DEFRAY THE ESTIMATED COST OF ADMINISTERING AND ENFORCING THE**  
17 **SECONDARY MORTGAGE LOAN OFFICER REGISTRATION PROVISIONS OF THIS**  
18 **ACT. THIS SUBDIVISION DOES NOT APPLY TO A SECONDARY MORTGAGE LOAN**  
19 **OFFICER REGISTRANT DESCRIBED IN SECTION 2A(9).**

20 (7) Fees received under this act are not refundable.

21 (8) If any fees or penalties provided for in this act are not  
22 paid when required, the attorney general may maintain an action  
23 against the delinquent licensee or registrant for the recovery of  
24 the fees and penalties together with interest and costs.

25 (9) A licensee or registrant that fails to submit to the  
26 commissioner the reports as required by subsections (2) and (13) is  
27 subject to a penalty of \$25.00 for each day a required report is

1 delinquent or \$1,000.00, whichever is less.

2 (10) A license or registration renewal fee that is not  
3 received on or before December 31 is subject to a penalty of \$25.00  
4 for each day the fee is delinquent or \$1,000.00, whichever is less.

5 (11) Money received ~~under this act~~ **FROM THE FEES DESCRIBED IN**  
6 **THIS SECTION** shall be deposited in the ~~state treasury and credited~~  
7 ~~to the financial institutions bureau to be used only for the~~  
8 ~~operation of the financial institutions bureau~~ **MBLSLA FUND. AS USED**  
9 **IN THIS SUBSECTION, "MBLSLA FUND" MEANS THE RESTRICTED ACCOUNT**  
10 **CREATED UNDER SECTION 8(8) OF THE MORTGAGE BROKERS, LENDERS, AND**  
11 **SERVICES LICENSING ACT, 1987 PA 173, MCL 445.1658.**

12 (12) The annual operating fees set by the commissioner shall  
13 not exceed the levels needed to cover the estimated cost of  
14 enforcement of this act.

15 (13) On or before a date to be determined by the commissioner,  
16 a licensee or registrant shall annually file with the commissioner  
17 a report giving information, as required by the commissioner,  
18 concerning the business and operations of the licensee or  
19 registrant under this act during the immediately preceding calendar  
20 year. In addition, the commissioner may require a licensee or  
21 registrant to file special reports as the commissioner considers  
22 reasonably necessary for the proper supervision of licensees or  
23 registrants under this act. Reports required under this section  
24 shall be in the form prescribed by the commissioner, signed, and  
25 affirmed. A person who willfully and knowingly subscribes and  
26 affirms a false statement in a report required under this  
27 subsection is guilty of a felony, punishable by imprisonment for

1 not more than 15 years.

2 Sec. 6b. (1) The commissioner shall exercise general  
3 supervision and control over brokers, lenders, and servicers doing  
4 business in this state **AND SECONDARY MORTGAGE LOAN OFFICERS**  
5 **ORIGINATING SECONDARY MORTGAGE LOANS IN THIS STATE.**

6 (2) In addition to the other powers granted by this act, the  
7 commissioner may do any of the following:

8 (a) Deny an application for a license, ~~or~~ registration, **OR**  
9 **SECONDARY MORTGAGE LOAN OFFICER REGISTRATION.**

10 (b) Conduct examinations and investigations of any person, as  
11 necessary to enforce this act and the rules promulgated under this  
12 act.

13 (c) Investigate complaints filed against licensees or  
14 registrants.

15 (d) Advise the attorney general or the prosecuting attorney of  
16 ~~the county in which the business is conducted~~ **A COUNTY IN WHICH A**  
17 **BROKER, LENDER, OR SERVICER IS CONDUCTING BUSINESS OR IN WHICH A**  
18 **SECONDARY MORTGAGE LOAN OFFICER RESIDES** that the commissioner  
19 believes a licensee, registrant, **SECONDARY MORTGAGE LOAN OFFICER**  
20 **REGISTRANT**, or **OTHER** person is violating this act. The attorney  
21 general or prosecuting attorney shall bring a legal action to  
22 enjoin the operation of the business **OF THE BROKER, LENDER, OR**  
23 **SERVICER OR THE ORIGINATING OF SECONDARY MORTGAGES BY THE SECONDARY**  
24 **MORTGAGE LOAN OFFICER** or prosecute violations of this act.

25 (e) Bring an action in the Ingham county circuit court to  
26 enjoin a person from participating in, continuing to practice, or  
27 from engaging in a practice that is an unsafe or injurious practice

1 or that violates this act or a rule promulgated under this act.

2 (f) Order a person to cease and desist from a violation of  
3 this act or a rule promulgated under this act ~~as provided under~~  
4 section 14.

5 (g) Suspend, revoke, or refuse to issue a license, ~~or~~  
6 registration, ~~as provided~~ **OR SECONDARY MORTGAGE LOAN OFFICER**  
7 **REGISTRATION** under section 11.

8 (h) Assess a civil fine ~~as provided~~ under section 27.

9 (i) Appoint a conservator ~~as provided~~ under section 12a.

10 (j) Issue an order to prohibit a person from being employed  
11 by, an agent of, or control person of, a licensee or registrant ~~as~~  
12 ~~provided~~ under section 14a.

13 (k) Censure a licensee, ~~or~~ registrant, **OR SECONDARY MORTGAGE**  
14 **LOAN OFFICER REGISTRANT.**

15 (3) In the conduct of any examination or investigation under  
16 this act, the commissioner may do any of the following:

17 (a) Issue a subpoena ~~as provided~~ under section 15.

18 (b) Administer oaths ~~as provided~~ under section 15.

19 (c) Interrogate a person under oath concerning the business  
20 and conduct of affairs of a person subject to this act, and require  
21 the production of books, records, or papers relative to the  
22 inquiry.

23 (d) Have free access during regular business hours to the  
24 offices, places of business, or other location where the licensee,  
25 registrant, or an affiliate of a licensee or registrant, maintains  
26 business-related documents, and to the books, accounts, papers,  
27 records, files, documents, safes, and vaults of a licensee or

1 registrant. The information obtained during the examination or  
 2 investigation is exempt from the freedom of information act, 1976  
 3 PA 442, MCL 15.231 to 15.246, and shall not be available for public  
 4 inspection or copying or divulged to any person except as follows:

5 (i) To the attorney general.

6 (ii) To a regulatory agency.

7 (iii) In connection with an enforcement action brought under  
 8 this or another applicable act.

9 (iv) To law enforcement officials.

10 (v) To persons authorized by the Ingham county circuit court  
 11 to receive the information.

12 (e) Employ independent investigators to conduct a part or all  
 13 of ~~the~~ **AN** investigation, in the case of an investigation other than  
 14 an examination.

15 Sec. 11. (1) A notice shall be given to a licensee,  
 16 registrant, **SECONDARY MORTGAGE LOAN OFFICER REGISTRANT**, or  
 17 applicant of the commissioner's intention to enter an order to  
 18 suspend or revoke a license, ~~or~~ registration, **OR SECONDARY MORTGAGE**  
 19 **LOAN OFFICER REGISTRATION** or to refuse to issue a license, ~~or~~  
 20 registration, **OR SECONDARY MORTGAGE LOAN OFFICER REGISTRATION**. The  
 21 notice shall be in writing ~~and~~ served personally ~~or~~ sent by  
 22 certified mail to the licensee, registrant, **SECONDARY MORTGAGE LOAN**  
 23 **OFFICER REGISTRANT**, or applicant.

24 (2) ~~The~~ **A** licensee, registrant, **SECONDARY MORTGAGE LOAN**  
 25 **OFFICER REGISTRANT**, or applicant may request a hearing to contest  
 26 the intention to enter an order or refusal **UNDER SUBSECTION (1)**  
 27 within 20 days after service of the notice. If a hearing regarding

1 suspension, revocation, or refusal to issue a license, ~~or~~  
2 registration, **OR SECONDARY MORTGAGE LOAN OFFICER REGISTRATION** is  
3 not requested, the commissioner shall enter a final order regarding  
4 the suspension, revocation, or refusal to issue a license, ~~or~~  
5 registration, **OR SECONDARY MORTGAGE LOAN OFFICER REGISTRATION**. The  
6 hearing shall be conducted in accordance with the provisions of the  
7 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
8 24.328. The commissioner may suspend, revoke, or refuse to issue or  
9 renew a license, ~~or~~ registration, **OR SECONDARY MORTGAGE LOAN**  
10 **OFFICER REGISTRATION** if he or she finds that the licensee, ~~or~~  
11 registrant, **OR SECONDARY MORTGAGE LOAN OFFICER REGISTRANT** or an  
12 owner, director, officer, member, partner, stockholder, employee,  
13 or agent of ~~the~~ **A** licensee, ~~or~~ registrant, **OR SECONDARY MORTGAGE**  
14 **LOAN OFFICER REGISTRANT** has done any of the following:

15 (a) Made a material misstatement in ~~the~~ **AN** application.

16 (b) Engaged in fraud, deceit, or material misrepresentation in  
17 connection with any transaction subject to this act.

18 (c) Failed after 10 days' written notice of default, to pay  
19 ~~the~~ **AN** annual operating fee, to maintain in effect ~~the~~ **A** bond as  
20 required by the commissioner, or to comply with a demand, ruling,  
21 or requirement of the commissioner lawfully made under this act.

22 (d) Either knowingly or without the exercise of due care to  
23 prevent it, violated this act or a rule promulgated under this act.

24 (3) The commissioner may suspend, revoke, or refuse to renew a  
25 license, ~~or~~ registration, **OR SECONDARY MORTGAGE LOAN OFFICER**  
26 **REGISTRATION** upon a finding of a fact or condition which, if the  
27 fact or condition had existed at the time of the original

1 application for the license, ~~or~~ registration, **OR SECONDARY MORTGAGE**  
2 **LOAN OFFICER REGISTRATION**, clearly would have warranted the  
3 commissioner to refuse to issue the license, ~~or~~ registration, **OR**  
4 **SECONDARY MORTGAGE LOAN OFFICER REGISTRATION** originally.

5 (4) A licensee, ~~or~~ registrant, **OR SECONDARY MORTGAGE LOAN**  
6 **OFFICER REGISTRANT** may surrender a license, ~~or~~ registration, **OR**  
7 **SECONDARY MORTGAGE LOAN OFFICER REGISTRATION** by delivering to the  
8 commissioner the license, ~~or~~ registration, ~~certificate~~ **OR SECONDARY**  
9 **MORTGAGE LOAN OFFICER REGISTRATION** with written notice that the  
10 licensee, ~~or~~ registrant, **OR SECONDARY MORTGAGE LOAN OFFICER**  
11 **REGISTRANT** surrenders the license, ~~or~~ registration, **OR SECONDARY**  
12 **MORTGAGE LOAN OFFICER REGISTRATION**. The surrender, suspension, or  
13 revocation of a license, ~~or~~ registration, **OR SECONDARY MORTGAGE**  
14 **LOAN OFFICER REGISTRATION** under this act shall not affect the  
15 licensee's, ~~or~~ registrant's, **OR SECONDARY MORTGAGE LOAN OFFICER**  
16 **REGISTRANT'S** civil or criminal liability for acts committed in  
17 violation of this act. The surrender of a license, ~~or~~ registration,  
18 **OR SECONDARY MORTGAGE LOAN OFFICER REGISTRATION** does not affect a  
19 proceeding to suspend or revoke a license, ~~or~~ registration, **OR**  
20 **SECONDARY MORTGAGE LOAN OFFICER REGISTRATION**.

21 (5) Except as otherwise provided by law, a surrender,  
22 suspension, or revocation of a license, ~~or~~ registration, ~~shall~~ **OR**  
23 **SECONDARY MORTGAGE LOAN OFFICER REGISTRATION DOES** not impair or  
24 affect the obligation of a preexisting contract between the  
25 licensee, ~~or~~ registrant, **OR SECONDARY MORTGAGE LOAN OFFICER**  
26 **REGISTRANT** and another person.

27 (6) A licensee, ~~or~~ registrant, **OR SECONDARY MORTGAGE LOAN**



1 **OFFICER REGISTRANT** whose license, ~~or~~ registration, **OR SECONDARY**  
 2 **MORTGAGE LOAN OFFICER REGISTRATION** certificate has been destroyed  
 3 or lost may comply with this section by submitting to the  
 4 commissioner a notarized affidavit of the loss accompanied by  
 5 written notice that the licensee, ~~or~~ registrant, **OR SECONDARY**  
 6 **MORTGAGE LOAN OFFICER REGISTRANT** surrenders the license, ~~or~~  
 7 registration, **OR SECONDARY MORTGAGE LOAN OFFICER REGISTRATION**.

8       Sec. 13. (1) A license, ~~or~~ registration, **OR SECONDARY MORTGAGE**  
 9 **LOAN OFFICER REGISTRATION** remains in force until the date of  
 10 expiration or until surrendered, revoked, or suspended under this  
 11 act. The commissioner may reinstate a suspended license, ~~or~~  
 12 registration, **OR SECONDARY MORTGAGE LOAN OFFICER REGISTRATION** or  
 13 issue a new license, ~~or~~ registration, **OR SECONDARY MORTGAGE LOAN**  
 14 **OFFICER REGISTRATION** to a licensee, ~~or~~ registrant, **OR SECONDARY**  
 15 **MORTGAGE LOAN OFFICER REGISTRANT** whose license, ~~or~~ registration, **OR**  
 16 **SECONDARY MORTGAGE LOAN OFFICER REGISTRATION** has been revoked if  
 17 the conditions under which the license, ~~or~~ ~~registrant~~ ~~REGISTRATION~~,  
 18 **OR SECONDARY MORTGAGE LOAN OFFICER REGISTRATION** was revoked have  
 19 been corrected and the commissioner is satisfied, as the result of  
 20 an investigation, that the conditions are not likely to recur.

21       (2) A **PERSON SHALL NOT TRANSFER OR ASSIGN A** license or  
 22 registration ~~shall not be transferred or assigned~~ without the  
 23 consent of the commissioner.

24 ~~——(3)——~~The sale, transfer, assignment, or conveyance of more than  
 25 25% of the outstanding voting stock of a licensee or registrant  
 26 ~~which~~ **THAT** is a corporation, or more than 25% of the interest in a  
 27 licensee or registrant ~~which~~ **THAT** is a **LIMITED LIABILITY COMPANY OR**

1 partnership or other unincorporated legal entity ~~, shall be~~ **IS**  
 2 considered ~~to be a~~ transfer of ~~the~~ **A** license or registration **FOR**  
 3 **PURPOSES OF THIS SUBSECTION.**

4 Sec. 20. A licensee, ~~or~~ registrant, **OR SECONDARY MORTGAGE LOAN**  
 5 **OFFICER REGISTRANT** shall not make or offer to make a secondary  
 6 mortgage loan except on the terms and conditions authorized by this  
 7 act and the rules promulgated under this act.

8 Sec. 22. (1) ~~Other~~ **A LICENSEE OR REGISTRANT SHALL NOT DIRECTLY**  
 9 **OR INDIRECTLY ASSESS ANY** charges ~~and~~ **OR** fees ~~shall not be made,~~  
 10 ~~directly or indirectly,~~ in connection with ~~the making of a~~  
 11 secondary mortgage loan, except for any of the following, which may  
 12 be included in the principal of the loan:

13 (a) Charges for credit life insurance or credit accident and  
 14 health insurance as defined in **SECTION 3 OF** the credit insurance  
 15 act, 1958 PA 173, MCL ~~550.601 to 550.624~~ **550.603**, or any other  
 16 insurance under the insurance code of 1956, 1956 PA 218, MCL  
 17 500.100 to 500.8302, that is offered by the licensee or registrant  
 18 and that ~~may be purchased at the option of the borrower~~ **HAS THE**  
 19 **OPTION TO PURCHASE.**

20 (b) ~~Reasonable and necessary charges that are~~ **IF REASONABLE**  
 21 **AND NECESSARY**, the actual expenses incurred ~~by the licensee,~~  
 22 ~~registrant, or exclusive broker~~ in connection with ~~the making,~~  
 23 closing, disbursing, extending, readjusting, or renewing ~~of a~~  
 24 secondary mortgage loan ~~—~~ **BY ANY OF THE FOLLOWING, AS APPLICABLE:**

25 (i) **THE LICENSEE.**

26 (ii) **THE REGISTRANT.**

27 (iii) **AN EXCLUSIVE BROKER OF THE LICENSEE OR REGISTRANT. THIS**

1 **SUBPARAGRAPH DOES NOT APPLY AFTER MARCH 31, 2009.**

2 (c) A nonrefundable processing fee that is not more than 5% of  
3 the gross amount of the loan.

4 (d) Other charges ~~as authorized by~~ **UNDER** the credit reform  
5 act, 1995 PA 162, MCL 445.1851 to 445.1864.

6 (e) A reasonable annual fee for the privilege of receiving  
7 open-end credit from the licensee or registrant.

8 (2) The charges authorized ~~by~~ **UNDER** this section ~~shall be~~ **ARE**  
9 in addition to interest authorized by law and are not a part of the  
10 interest collected or agreed to be paid on the secondary mortgage  
11 loan within the meaning of the law of this state that limits the  
12 rate of interest ~~which~~ **THAT** may be exacted in a transaction. The  
13 charges shall be paid only once by the borrower to the licensee or  
14 registrant.

15 (3) Any insurance sold by a licensee or registrant ~~shall be in~~  
16 ~~accordance~~ **CONNECTION WITH A SECONDARY MORTGAGE LOAN MUST COMPLY**  
17 with the insurance code of 1956, 1956 PA 218, MCL 500.100 to  
18 500.8302, or the credit insurance act, 1958 PA 173 MCL 500.601 to  
19 500.624, **AS APPLICABLE.**

20 (4) If a licensee or registrant requires a borrower to  
21 purchase hazard insurance, the licensee or registrant shall not  
22 require the borrower to purchase the insurance through a particular  
23 agency or agent or from a particular insurer.

24 (5) This section does not prohibit a licensee or registrant  
25 from imposing the charges that are permitted by any federal lending  
26 program designed to promote the making of secondary mortgage loans.

27 **SEC. 26A. A SECONDARY MORTGAGE LOAN OFFICER REGISTRANT SHALL**

1 NOT DO ANY OF THE FOLLOWING:

2 (A) ENGAGE IN FRAUD, DECEIT, OR MATERIAL MISREPRESENTATION IN  
3 CONNECTION WITH ANY TRANSACTION GOVERNED BY THIS ACT.

4 (B) INTENTIONALLY, OR DUE TO GROSS OR WANTON NEGLIGENCE,  
5 REPEATEDLY FAIL TO PROVIDE BORROWERS WITH ANY MATERIAL DISCLOSURES  
6 OF INFORMATION REQUIRED BY LAW.

7 (C) DIRECTLY OR INDIRECTLY MAKE A FALSE, MISLEADING, OR  
8 DECEPTIVE ADVERTISEMENT REGARDING SECONDARY MORTGAGE LOANS OR THE  
9 AVAILABILITY OF SECONDARY MORTGAGE LOANS.

10 (D) SUPPRESS OR WITHHOLD FROM THE COMMISSIONER ANY INFORMATION  
11 THAT THE SECONDARY MORTGAGE LOAN OFFICER POSSESSES AND THAT, IF  
12 SUBMITTED, WOULD HAVE MADE THE SECONDARY MORTGAGE LOAN OFFICER  
13 INELIGIBLE FOR REGISTRATION OR RENEWAL OF HIS OR HER SECONDARY  
14 MORTGAGE LOAN OFFICER REGISTRATION UNDER THIS ACT AT THE TIME OF  
15 APPLICATION AND WOULD HAVE ALLOWED THE COMMISSIONER TO REFUSE TO  
16 REGISTER THE SECONDARY MORTGAGE LOAN OFFICER.

17 (E) BE CONVICTED OF, OR PLEAD NO CONTEST TO, ANY OF THE  
18 FOLLOWING:

19 (i) A MISDEMEANOR INVOLVING EMBEZZLEMENT, FORGERY, FRAUD, A  
20 FINANCIAL TRANSACTION, OR SECURITIES.

21 (ii) A FELONY.

22 (F) REFUSE OR FAIL TO FURNISH ANY INFORMATION OR MAKE ANY  
23 REPORT REQUIRED BY THE COMMISSIONER TO ISSUE OR RENEW A SECONDARY  
24 MORTGAGE LOAN OFFICER REGISTRATION, OR OTHERWISE REQUIRED BY THE  
25 COMMISSIONER, WITHIN A REASONABLE PERIOD OF TIME, AS DETERMINED BY  
26 THE COMMISSIONER, AFTER REQUESTED BY THE COMMISSIONER.

27 Sec. 27. (1) In addition to the penalties provided by this

1 act, a violation of this act with respect to a particular secondary  
2 mortgage loan transaction is also subject to the penalty and remedy  
3 provisions of the credit reform act, 1995 PA 162, MCL 445.1851 to  
4 445.1864.

5 (2) A person, association, nonprofit corporation, common law  
6 trust, joint stock company, limited liability company, or any other  
7 group of individuals, however organized, or any owner, partner,  
8 member, officer, director, trustee, employee, agent, broker, or  
9 representative thereof ~~who or which~~ **THAT** willfully or intentionally  
10 engages in this state in the business of making secondary mortgage  
11 loans without a license, ~~as~~ **REGISTRATION, OR SECONDARY MORTGAGE**  
12 **LOAN OFFICER REGISTRATION** required under this act, is guilty of a  
13 misdemeanor punishable by a fine of not more than ~~\$5,000.00,~~  
14 **\$15,000.00 OR** imprisonment for not more than ~~3 years~~ **1 YEAR**, or  
15 both.

16 (3) A person who violates this act or directly or indirectly  
17 counsels, aids, or abets in a violation is liable, in addition to  
18 other penalties and forfeitures imposed by this act, for a civil  
19 fine of not more than \$1,000.00 for each offense. The civil fine  
20 shall be sued for and recovered by the commissioner and shall be  
21 collected and enforced by summary proceedings by the attorney  
22 general.

23 (4) Whether or not he or she seeks damages or has an adequate  
24 remedy at law, a person, a county prosecutor, or the attorney  
25 general may bring an action to do any of the following:

26 (a) Obtain a declaratory judgment that a method, act, or  
27 practice is a violation of this act.

1 (b) Enjoin a person from engaging in, or who is about to  
2 engage in, a method, act, or practice that violates this act.

3 (c) Recover actual damages resulting from a violation of this  
4 act or \$250.00, whichever is greater, together with reasonable  
5 attorneys' fees and the costs of bringing the action.

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

9 (a) Senate Bill No.\_\_\_\_ or House Bill No.\_\_\_\_ (request no.  
10 08018'08 \*).

11 (b) Senate Bill No.\_\_\_\_ or House Bill No.\_\_\_\_ (request no.  
12 08019'08).

13 (c) Senate Bill No.\_\_\_\_ or House Bill No.\_\_\_\_ (request no.  
14 08020'08 \*).

15 (d) Senate Bill No.\_\_\_\_ or House Bill No.\_\_\_\_ (request no.  
16 08164'08).