

HOUSE BILL No. 5899

November 6, 2014, Introduced by Rep. Shirkey and referred to the Committee on Financial Services.

A bill to amend 1987 PA 173, entitled "Mortgage brokers, lenders, and servicers licensing act," by amending section 22 (MCL 445.1672), as amended by 2002 PA 391.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 22. (1) It is a violation of this act for a licensee or
2 registrant to do any of the following:

3 (a) Fail to conduct the business in accordance with law, this
4 act, or a rule promulgated or order issued under this act.

5 (b) Engage in fraud, deceit, or material misrepresentation in
6 connection with any transaction governed by this act.

7 (c) Intentionally or due to gross or wanton negligence,
8 repeatedly fail to provide borrowers material disclosures of
9 information as required by law.

10 (d) Suppress or withhold from the ~~commissioner~~DIRECTOR any

1 information that the licensee or registrant possesses and that, if
2 submitted, would have made the licensee or registrant ineligible
3 for licensing or registration under this act or would have
4 warranted the ~~commissioner's~~ **DIRECTOR'S** denial of a license
5 application or refusal to accept a registration.

6 (e) Fail to comply with 1966 PA 125, MCL 565.161 to 565.164,
7 regulating the handling of mortgage escrow accounts by mortgagees.

8 (f) Until proper disbursement is made, fail to place in a
9 trust or escrow account held by a federally insured depository
10 financial institution in a manner approved by the ~~commissioner~~
11 **DIRECTOR** any money, funds, deposits, checks, drafts, or other
12 negotiable instruments received by the licensee that the borrower
13 is obligated to pay to a third party, including amounts paid to the
14 holder of the mortgage loan, amounts for property taxes and
15 insurance premiums, or amounts paid under an agreement that
16 requires if the mortgage loan is not closed the amounts paid shall
17 be refunded to the prospective borrower or if the mortgage loan is
18 closed the amounts paid shall be applied to fees and costs incurred
19 at the time the mortgage loan is closed. Fees and costs include,
20 but are not limited to, title insurance premiums and recording
21 fees. Fees and costs do not include amounts paid to cover costs
22 incurred to process the mortgage loan application, to obtain an
23 appraisal, or to receive a credit report.

24 (g) Refuse to permit an examination or investigation by the
25 ~~commissioner~~ **DIRECTOR** of the books and affairs of the licensee or
26 registrant, or has refused or failed, within a reasonable time, to
27 furnish any information or make any report that ~~may be~~ **IS** required

1 by the ~~commissioner~~**DIRECTOR** under this act.

2 (h) To be convicted of a felony, or any misdemeanor of which
3 an essential element is fraud.

4 (i) Refuse or fail to pay, within a reasonable time, those
5 expenses assessed to the licensee or registrant under this act.

6 (j) Fail to make restitution after having been ordered to do
7 so by the ~~commissioner~~**DIRECTOR** or an administrative agency, or
8 fail to make restitution or pay damages to persons injured by the
9 licensee's or registrant's business transactions after having been
10 ordered to do so by a court.

11 (k) Fail to make a mortgage loan in accordance with a written
12 commitment to make a mortgage loan issued to, and accepted by, a
13 person when the person has timely and completely satisfied all the
14 conditions of the commitment before the expiration of the
15 commitment.

16 (l) Require a prospective borrower to deal exclusively with the
17 licensee or registrant in regard to a mortgage loan application.

18 (m) Take a security interest in real property before closing
19 the mortgage loan to secure payment of fees assessed in connection
20 with a mortgage loan application.

21 (n) Except as provided under section 18e, knowingly permit a
22 person to violate an order that has been issued under this act or
23 any other financial licensing act that prohibits that person from
24 being employed by, an agent of, or a control person of the licensee
25 or registrant.

26 (o) **UNLESS AN ESCROW ACCOUNT IS REQUIRED BY LAW, ESTABLISH AN**
27 **ESCROW ACCOUNT FOR THE PAYMENT OF REAL PROPERTY TAXES, OR REQUIRE**

1 THAT A MORTGAGOR MAKE PAYMENTS TO A MORTGAGE ESCROW ACCOUNT FOR THE
2 PAYMENT OF REAL PROPERTY TAXES, IF THE MORTGAGOR IS A DISABLED
3 VETERAN AS DEFINED IN SECTION 7B OF THE GENERAL PROPERTY TAX ACT,
4 1893 PA 206, MCL 211.7B, AND THE REAL PROPERTY SECURING THE
5 MORTGAGE LOAN IS EXEMPT FROM TAXATION UNDER SECTION 7B OF THE
6 GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.7B.

7 (2) AS USED IN THIS SECTION, "DIRECTOR" MEANS THE DIRECTOR OF
8 THE DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES.