

SENATE BILL No. 482

September 11, 1991, Introduced by Senator ARTHURHULTZ and referred to the Committee on Appropriations.

A bill to amend sections 8, 20, and 21 of Act No. 173 of the Public Acts of 1987, entitled "Mortgage brokers, lenders, and servicers licensing act," section 8 as amended by Act No. 451 of the Public Acts of 1988, being sections 445.1658, 445.1670, and 445.1671 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 8, 20, and 21 of Act No. 173 of the
2 Public Acts of 1987, section 8 as amended by Act No. 451 of the
3 Public Acts of 1988, being sections 445.1658, 445.1670, and
4 445.1671 of the Michigan Compiled Laws, are amended to read as
5 follows:

6 Sec. 8. (1) At the time of making an initial application
7 for a license under this act, and at the time of making the first
8 application for a license after the suspension or revocation of a

1 license, the applicant shall pay to the commissioner a fee ~~of~~
 2 ~~\$200.00 for the cost of~~ FOR investigating the applicant ~~—, and~~
 3 ~~\$300.00 as~~ AND an annual license fee AS PROVIDED BY
 4 SUBSECTION (3). To renew a license ~~—, which~~ THAT has not been
 5 suspended or revoked, the applicant shall only pay to the commis-
 6 sioner the annual license fee. ~~—of \$300.00—~~ A registrant shall
 7 pay to the commissioner ~~\$300.00 as~~ an annual registration fee
 8 AS PROVIDED BY SUBSECTION (3).

9 (2) If the initial or renewed license OR REGISTRATION as
 10 provided in subsection (1) would have an effective date within 6
 11 months of the expiration date provided for in section 7, the ini-
 12 tial or renewal annual license OR REGISTRATION fee for that
 13 license only ~~shall be \$150.00~~ IS 1/2 OF THE ANNUAL LICENSE OR
 14 REGISTRATION FEE.

15 (3) THE COMMISSIONER SHALL ANNUALLY ESTABLISH THE SCHEDULE
 16 OF FEES SUFFICIENT TO PAY THE BUREAU'S COSTS OF ADMINISTERING
 17 THIS ACT. THE FEES ARE AS FOLLOWS:

18 (A) FOR THE INVESTIGATION OF AN APPLICANT FOR A LICENSE, NOT
 19 LESS THAN \$200.00 OR MORE THAN \$600.00.

20 (B) FOR THE ISSUANCE OR ANNUAL RENEWAL OF A LICENSE OR REG-
 21 ISTRATION, NOT LESS THAN \$300.00 OR MORE THAN \$800.00.

22 (C) FOR AMENDING A LICENSE OR REGISTRATION, NOT LESS THAN
 23 \$20.00 OR MORE THAN \$75.00.

24 (D) FOR EXAMINATION OF THE LICENSEE OR INVESTIGATION OF A
 25 REGISTRANT OR LICENSEE, NOT LESS THAN \$40.00 OR MORE THAN \$70.00
 26 PER HOUR FOR EACH EXAMINER INVOLVED IN AN EXAMINATION. IN
 27 ADDITION, A LICENSEE SHALL PAY THE ACTUAL TRAVEL, LODGING, AND

1 MEAL EXPENSES INCURRED BY BUREAU EMPLOYEES WHO TRAVEL OUT OF
2 STATE TO EXAMINE THE RECORDS OF THE LICENSEE AND THE COST OF
3 INDEPENDENT INVESTIGATORS EMPLOYED UNDER SECTION 20(1)(E).

4 (4) FEES RECEIVED PURSUANT TO THIS ACT ARE NOT REFUNDABLE.

5 (5) IF ANY FEES OR PENALTIES PROVIDED FOR IN THIS ACT ARE
6 NOT PAID WHEN REQUIRED, THE ATTORNEY GENERAL MAY MAINTAIN AN
7 ACTION AGAINST THE DELINQUENT LICENSEE OR REGISTRANT FOR THE
8 RECOVERY OF THE FEES OR PENALTIES TOGETHER WITH INTEREST AND
9 COSTS.

10 (6) A LICENSEE OR REGISTRANT WHO FAILS TO SUBMIT TO THE COM-
11 MISSIONER A REPORT REQUIRED BY SECTION 7 OR SECTION 21 IS SUBJECT
12 TO A PENALTY OF \$25.00 FOR EACH DAY THE REPORT IS DELINQUENT OR
13 \$1,000.00, WHICHEVER IS LESS.

14 (7) A LICENSEE OR REGISTRANT WHOSE LICENSE OR REGISTRATION
15 RENEWAL FEE IS NOT PAID ON OR BEFORE JUNE 30 IS SUBJECT TO A PEN-
16 ALTY OF \$25.00 FOR EACH DAY THE FEE IS DELINQUENT OR \$1,000.00,
17 WHICHEVER IS LESS.

18 (8) ~~-(3)- All fees-~~ MONEY received under this act shall be
19 deposited in the state treasury and ~~-shall be placed in a special~~
20 ~~fund. The special fund shall be administered by the~~
21 ~~commissioner. Money placed in the special fund shall be directed~~
22 ~~to the~~ CREDITED TO THE FINANCIAL INSTITUTIONS BUREAU TO BE USED
23 ONLY FOR THE operation of the financial institutions bureau.

24 Sec. 20. (1) In the conduct of any examination or investi-
25 gation under this act, the commissioner may DO ANY OF THE
26 FOLLOWING:

1 (a) Compel the attendance of ~~any~~ A person by subpoena.

2 (b) Administer oaths.

3 (c) Interrogate ~~any~~ A person under oath concerning the
4 business and conduct of affairs of ~~any~~ A person subject to ~~the~~
5 ~~provisions of~~ this act, and require the production of ~~any~~
6 books, records, or papers relative to the inquiry.

7 (d) Have free access during regular business hours to the
8 offices, places of business, or other location where the licensee
9 or registrant, or an affiliate of a licensee or registrant, main-
10 tains business related documents, and to the books, accounts,
11 papers, records, files, documents, safes, and vaults of a
12 licensee or registrant. The information obtained during the
13 examination or investigation shall be confidential and shall not
14 be available for public inspection or copying, or divulged to any
15 person, except as provided in this section. The information may
16 be disclosed as follows:

17 (i) To the attorney general.

18 (ii) To any regulatory agency.

19 (iii) In connection with an enforcement action brought pur-
20 suant to this or another applicable act.

21 (iv) Under subpoena, to any party in a private action.

22 (v) To law enforcement officials.

23 (vi) To persons authorized by the Ingham county circuit
24 court to receive the information.

25 (e) Employ independent investigators to conduct a part or
26 all of the investigation, in the case of an investigation other
27 than the annual examination.

1 (2) ~~Every~~ A person subpoenaed under ~~the provisions of~~
2 this section who willfully refuses or willfully neglects to
3 appear at the time and place named in the subpoena, or to produce
4 books, accounts, records, files, or documents required by the
5 commissioner, or who refuses to be sworn or, unless permitted by
6 law, refuses to answer as a witness, is guilty of a misdemeanor.

7 (3) Except as otherwise provided BY THIS ACT, the commis-
8 sioner ~~shall only be entitled to~~ MAY ONLY conduct 1 examination
9 of a licensee in any 12-month period from July 1 to June 30. The
10 cost of 1 examination of a licensee in any 12-month period from
11 July 1 to June 30 shall be assessed to the licensee. In addi-
12 tion, the commissioner ~~shall be~~ IS entitled to conduct an
13 investigation of a licensee or registrant against whom a com-
14 plaint has been filed, but the licensee or registrant shall only
15 pay the cost of the investigation if the licensee or registrant
16 repeatedly violates a material provision of this act. ~~The fee~~
17 ~~for an examination or investigation under this act shall be not~~
18 ~~less than \$20.00 per hour nor more than \$40.00 per hour for each~~
19 ~~examiner engaged in the examination. In addition to the hourly~~
20 ~~rate, the fee shall include the actual and reasonable travel,~~
21 ~~lodging, and meal expenses of the authorized examiner or examin-~~
22 ~~ers when traveling out of state, and the cost of independent~~
23 ~~investigators employed under subsection (1)(e).~~ To avoid unnec-
24 essary duplication of examinations, the commissioner shall coop-
25 erate with any agency of the state or federal government, other
26 states, the federal national mortgage association, or the federal
27 home loan mortgage corporation — and shall accept examinations

1 of the foregoing in connection with, or in place of, an
2 examination by the commissioner under this act, unless the com-
3 missioner determines that the examinations are not available or
4 do not provide information necessary to enable the commissioner
5 to fulfill his or her responsibilities under this act. The com-
6 missioner shall attempt to examine at the same time the books and
7 records summarizing any other activity in which the licensee is
8 engaged, pursuant to another statute, which grants the commis-
9 sioner regulatory responsibility over the licensee engaged in the
10 activity.

11 Sec. 21. (1) ~~Every licensee and~~ A LICENSEE OR registrant
12 shall maintain books, accounts, records, and documents of the
13 business, as ~~may be~~ prescribed by the commissioner, conducted
14 under the license or registration to enable the commissioner to
15 determine whether the business of the licensee or registrant is
16 conducted in accordance with this act and the rules promulgated
17 under this act. The preservation of records by photographic
18 reproduction or electronically ~~shall constitute~~ CONSTITUTES
19 compliance with this section. If the books, accounts, records,
20 and documents are not made available in this state, the licensee
21 or registrant shall pay the reasonable travel, lodging, and meal
22 expenses of the examiner as provided in section ~~20~~ 8.

23 (2) A licensee or registrant shall preserve and keep avail-
24 able for examination by the commissioner each mortgage loan docu-
25 ment in its possession or control, including, ~~by way of example~~
26 ~~and not limitation~~ BUT NOT LIMITED TO, the application, credit
27 report, employment verification, loan disclosure statement, and

1 settlement statement, until the mortgage loan is transferred or
2 assigned, or the expiration of 3 years after the date the mort-
3 gage loan is closed, whichever occurs first. If the mortgage
4 loan is transferred or assigned, the licensee or registrant shall
5 preserve and keep available for examination by the commissioner
6 copies of the promissory note, mortgage, land contract,
7 truth-in-lending disclosure statements, and settlement statements
8 in its possession or control for 3 years after the date the mort-
9 gage loan is transferred or assigned. Notwithstanding any OTHER
10 provision ~~to the contrary~~ OF THIS ACT, each licensee or regis-
11 trant shall preserve and keep available for examination by the
12 commissioner all documents pertaining to a rejected application
13 for a mortgage loan for the period of time required by state or
14 federal law. A licensee or registrant shall preserve all other
15 books, accounts, records, and documents pertaining to the
16 licensee's or registrant's business ~~—~~ and keep them available
17 for examination by the commissioner for not less than 3 years
18 after the conclusion of the fiscal year of the licensee or regis-
19 trant in which the book, account, record, or document was
20 created.

21 (3) On or before a date to be determined by the commission-
22 er, a licensee OR REGISTRANT shall ~~file annually~~ ANNUALLY FILE
23 with the commissioner a report giving information, as required by
24 the commissioner, concerning the business and operations of the
25 licensee OR REGISTRANT under authority of this act during the
26 IMMEDIATELY preceding calendar year. In addition, the
27 commissioner may require a licensee or registrant to file special

1 reports as the commissioner considers reasonably necessary for
2 the proper supervision of licensees or registrants under this
3 act. Reports required pursuant to this section shall be in the
4 form prescribed by the commissioner, ~~and shall be~~ signed, and
5 affirmed. A person who willfully and knowingly subscribes and
6 affirms a false statement in a report required pursuant to this
7 subsection is guilty of a felony, punishable by imprisonment for
8 not more than 15 years.