

Act No. 43  
Public Acts of 1993  
Approved by the Governor  
May 27, 1993  
Filed with the Secretary of State  
May 27, 1993

**STATE OF MICHIGAN  
87TH LEGISLATURE  
REGULAR SESSION OF 1993**

Introduced by Reps. Murphy, Wallace, Palamara, Randall, Middaugh, DeLange, Shugars, DeMars, Points, Alley, Profit, Hood, Bennane, Leland, Kilpatrick, Stallworth and Saunders

# **ENROLLED HOUSE BILL No. 4423**

AN ACT to amend the title and sections 2, 6, 8, and 9 of Act No. 135 of the Public Acts of 1977, entitled "An act to prohibit certain mortgage lending practices by a credit granting institution; to require the institution to make reports regarding its mortgage lending practices; to prescribe the powers and duties of the commissioner of the financial institutions bureau in relation to those practices; to permit the establishment of local mortgage review boards; and to provide remedies and penalties," being sections 445.1602, 445.1606, 445.1608, and 445.1609 of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

Section 1. The title and sections 2, 6, 8, and 9 of Act No. 135 of the Public Acts of 1977, being sections 445.1602, 445.1606, 445.1608, and 445.1609 of the Michigan Compiled Laws, are amended to read as follows:

## **TITLE**

An act to prohibit certain mortgage lending practices by a credit granting institution; to prescribe the powers and duties of the commissioner of the financial institutions bureau in relation to those practices; to permit the establishment of local mortgage review boards; and to provide remedies and penalties.

Sec. 2. (1) Except on the basis of written policies or criteria uniformly applied to all neighborhoods within a particular standard metropolitan statistical area or within the county in areas outside a standard metropolitan statistical area, a credit granting institution shall not deny a loan application or vary the interest rate, the term to maturity, the percentage required for a down payment, the application and appraisal procedures, or other terms or conditions of a loan contract for either of the following:

- (a) Due to racial or ethnic characteristics or trends in the neighborhood in which the real estate is located.
  - (b) Due to the age of the structure on the real estate proposed as security or the age of other structures in the neighborhood in which the real estate is located. This subdivision does not preclude a credit granting institution from considering the physical condition and probable remaining useful life of the structure and all structures within a radius of 750 feet.
- (2) A policy or criteria used by a credit granting institution is considered to be uniformly applied, even if a credit granting institution grants exceptions to the policy or criteria in favor of a loan applicant in not more than 5% of the loan applications submitted to the credit granting institution.
- (3) Each loan application shall be individually considered on the basis of a factually supportable analysis of the lending risks associated with the proposed loan.

(4) A credit granting institution shall not impose a minimum mortgage amount greater than \$10,000.00, and a credit granting institution shall not impose a minimum loan amount of greater than \$1,000.00 for a home improvement loan.

(5) A credit granting institution shall not deny an individual an opportunity to submit a loan application. This act shall not be construed to require a credit union to allow loan inquiry or application by a person who is not a member or eligible to be a member of the credit union.

(6) A person who makes a loan application for a mortgage loan or home improvement loan that is denied or the terms of which are varied and not accepted by the applicant shall receive from the credit granting institution a written statement of the reasons for the rejection or variation of terms. A credit granting institution that complies with the requirements of the equal credit opportunity act, title VII of Public Law 90-321, 15 U.S.C. 1691 to 1691f, and the regulations promulgated under that act, is considered to have complied with the requirements of this subsection.

(7) A credit granting institution, unless otherwise prohibited by law, may charge an application fee uniform as to type of loan. If a credit granting institution includes appraisal in its written statement of reasons for rejection or variance or collects an application appraisal fee, then upon the request of a person making a loan application that is denied or the terms of which are varied and not accepted by the applicant, a credit granting institution shall provide the person, without additional charge, with a copy of the appraisal made in connection with the loan application. If an application appraisal fee is not collected, the copy may be made usable only for purposes related to this act. Copies of other completed forms, reports, and correspondence, except a credit report or correspondence pertaining to a credit report, used by the credit granting institution in reaching its decision shall be provided, on request and without charge, to a person making a loan application that is denied or the terms of which are varied and not accepted by the applicant.

(8) Except for an error or omission that is a violation of this act, a credit granting institution is not liable to an applicant or any other person for an error or omission in an appraisal or other supporting documents made available to an applicant.

(9) If a person makes a loan inquiry relating to the prospects of obtaining a loan, the credit granting institution shall respond to the inquiry and shall send or cause to be delivered to the person making the inquiry a copy of the pamphlet or other documents prepared pursuant to subsection (10).

(10) Each credit granting institution shall make available for public distribution at the institution's principal office and each branch office or service center a pamphlet or document explaining in general terms the credit granting institution's criteria for the approval or denial of a loan application. The pamphlet or other document shall prominently state that a person has the right to make a loan inquiry and to file a written application for a mortgage loan or home improvement loan and to receive a written response to the application. A credit granting institution may use a separate pamphlet or document for mortgage loans and home improvement loans, and the pamphlet or document may contain additional material as well as the material required by this subsection. A copy of the pamphlet or other document shall be filed with the commissioner.

Sec. 6. On or before March 31 of each year, a credit granting institution shall file with the commissioner an affidavit stating whether the institution is subject to the federal home mortgage disclosure act of 1975, title III of Public Law 94-200, 12 U.S.C. 2801 to 2810, and if subject to the act, that the institution has complied with the requirements of the act and the regulations promulgated under the act.

Sec. 8. (1) If in the opinion of the commissioner a credit granting institution is violating or has violated this act, or upon receipt of a written complaint of an alleged violation of this act by a credit granting institution, the commissioner shall investigate the alleged violation by the institution. The investigation shall commence within 15 days after the receipt of a complaint, and the commissioner shall report on the progress of the investigation to the affected parties within 30 days. The investigation shall be completed within 60 days after receipt of the complaint, and the commissioner shall report the findings to the affected parties. The commissioner may conduct a hearing on a complaint pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(2) The commissioner shall report annually to the house and senate committees overseeing civil rights and housing issues regarding the enforcement of this act. The commissioner shall provide written testimony summarizing activities taken in the previous year to achieve the purposes of this act, and such testimony shall be made available to the public upon request.

(3) The commissioner shall inform the governor, the legislature, and the press annually of the availability of information collected pursuant to the federal home mortgage disclosure act of 1975, title III of Public Law 94-200, 12 U.S.C. 2801 to 2810, including the methods by which both summary information and institution-specific information may be obtained. The commissioner shall maintain either an electronic or hard copy file of the standard metropolitan statistical area summaries of the information described in this subsection and shall ensure the availability of these summaries to the legislature and other persons upon request. The commissioner may impose a reasonable charge for providing the information.

Sec. 9. (1) The commissioner shall encourage credit granting institutions to cooperate with local citizen's groups and governing bodies of local units of government in the formation and operation of voluntary mortgage review boards. The purpose of voluntary local mortgage review boards is to review complaints of rejected loan applicants, attempt to place loans for rejected applicants, or any other purpose to which the persons forming the mortgage review board may agree.

(2) The commissioner may assist loan applicants and credit granting institutions in the placement of loans.

(3) If a mortgage review board is unable to successfully place the loan for the rejected applicant, the board shall notify the applicant in writing of the applicant's right to file a complaint with the commissioner or other governmental agency, or both, that has regulatory authority over the institution that denied the loan.

(4) Voluntary mortgage review boards shall not be subject to the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws, and the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws.

(5) The material furnished to the board by the loan applicant or by the financial institution at the applicant's request and other material relating to an applicant shall be kept confidential. Before a financial institution may release records and documents pertaining to the loan application to the mortgage review board, the applicant shall sign a release form. A financial institution may not release a credit report.

(6) A mortgage review board shall maintain minutes which reflect the number of cases appealed to the board, the disposition of each case, the persons present at each proceeding, and if closed to the public, the party requesting the closing.

(7) Meetings of mandatory mortgage review boards shall be open to the public unless the rejected applicant or the disapproving financial institution requests a closed session to discuss material concerning the rejected application. In cases of closed meetings, only members of the mortgage review board, the disapproving financial institution or the institution's representatives, or both, and the rejected applicant or the applicant's representatives, or both, shall attend.

Section 2. This amendatory act shall not take effect unless House Bill No. 4424 of the 87th Legislature is enacted into law.

This act is ordered to take immediate effect.

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Co-Clerk of the House of Representatives.

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Secretary of the Senate.

Approved -----

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Governor.