

Act No. 260
Public Acts of 1994
Approved by the Governor
July 4, 1994
Filed with the Secretary of State
July 5, 1994

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1994**

Introduced by Senators Schwarz Cisky Vaughn Wartner Dunaskiss O'Brien Cherry and Kelly

ENROLLED SENATE BILL No. 1038

AN ACT to amend section 25 of Act No. 173 of the Public Acts of 1987 entitled An act to define and regulate mortgage brokers mortgage lenders and mortgage servicers to prescribe the powers and duties of the financial institutions bureau and certain public officers and agencies to provide for the promulgation of rules and to provide remedies and penalties as amended by Act No. 451 of the Public Acts of 1988 being section 445 1675 of the Michigan Compiled Laws

The People of the State of Michigan enact

Section 1 Section 25 of Act No. 173 of the Public Acts of 1987 as amended by Act No. 451 of the Public Acts of 1988 being section 445 1675 of the Michigan Compiled Laws is amended to read as follows

Sec 25 This act does not apply to the following

(a) A depository financial institution whether or not the depository financial institution is acting in a capacity of a trustee or fiduciary

(b) A salesperson acting as an agent for a residential builder or residential maintenance and alteration contractor or a residential builder or residential maintenance and alteration contractor licensed under article 24 of the occupational code Act No. 299 of the Public Acts of 1980 being sections 339 2401 to 339 2412 of the Michigan Compiled Laws when a mortgage is made or negotiated in connection with the sale or financing of a residential structure or improvement constructed or improved by that residential builder or residential maintenance and alteration contractor

(c) A real estate broker or real estate salesperson licensed under article 25 of Act No. 299 of the Public Acts of 1980 being sections 339 2501 to 339 2518 of the Michigan Compiled Laws and who is not a mortgage broker mortgage lender or mortgage servicer or who only acts as a mortgage broker in connection with a real estate sale or lease and acts without additional compensation beyond the customary commission on such sales or leases

(d) A real estate salesperson who acts for a real estate broker as a mortgage broker mortgage lender or mortgage servicer and who receives for such services compensation only from the real estate broker for which the salesperson is an agent or employee

(e) A person licensed under Act No. 125 of the Public Acts of 1981 being sections 493 51 to 493 81 of the Michigan Compiled Laws not making brokering or servicing mortgage loans as described in this act in a 12 month period from July 1 to June 30

(f) A home improvement installment contract entered into pursuant to the home improvement finance act Act No. 332 of the Public Acts of 1965 being sections 445 1101 to 445 1431 of the Michigan Compiled Laws

(g) Agencies or corporate instrumentalities of the United States and of this state and its political subdivisions including the public employees retirement system

(h) A mortgage lender which makes 10 or fewer mortgage loans in a 12 month period from July 1 to June 30

(i) A mortgage servicer which services 10 or fewer mortgage loans in a 12 month period from July 1 to June 30

(j) A mortgage servicer which services only 75 or fewer land contracts of which 10 or fewer require the collection of money for the payment of taxes or insurance This subdivision and subdivision (i) do not exempt a mortgage servicer who collects money for the payment of taxes or insurance from the provisions of Act No 125 of the Public Acts of 1966 being sections 565 161 to 565 163 of the Michigan Compiled Laws All fees shall be returned to any mortgage servicer described in this subdivision who applied for a license and paid the fees required by this act and who on the effective date of this subdivision is exempted from licensing

(k) An individual licensed to practice law in this state and not engaged in the business of negotiating loans secured by real property when the individual renders services in the course of his or her practice as an attorney at law

(l) A person who makes mortgage loans exclusively for the benefit of employees of that person if the proceeds of the loan are used to assist the employee in meeting his or her housing needs

(m) A person acting as a fiduciary with respect to any employee pension benefit plan qualified under the internal revenue code who makes mortgage loans solely to plan participants from plan assets

(n) A mortgage broker mortgage lender or a mortgage servicer which is a subsidiary or affiliate of a depository financial institution or a subsidiary or affiliate of a holding company of a depository financial institution

(o) A nonprofit corporation established pursuant to the neighborhood reinvestment corporation act title VI of Public Law 95 557 42 U S C 8101 to 8107

This act is ordered to take immediate effect

Secretary of the Senate

Co Clerk of the House of Representatives

Approved

Governor