

## SECONDARY MORTGAGE LOAN OFFICERS

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**Senate Bill 1552 (Substitute S-1)**  
**Sponsor: Sen. Cameron S. Brown**

**Senate Bill 1554 (Substitute S-1)**  
**Sponsor: Sen. Mark C. Jansen**

**Senate Bill 1553 (Substitute S-1)**  
**Sponsor: Sen. Alan Sanborn**

**Senate Bill 1555 (Substitute S-1)**  
**Sponsor: Sen. Jim Barcia**

**House Committee: Banking and Financial Services**  
**Senate Committee: Banking and Financial Institutions**

**Complete to 12-1-08**

## A SUMMARY OF SENATE BILLS 1552-1553 AS PASSED BY THE SENATE 11-13-08

Earlier this session, the Legislature and Governor enacted a number of laws providing for the registration of mortgage loan officers under the Mortgage Brokers, Lenders, and Servicers Licensing Act (1987 PA 173). In general, the registration requirements are to take effect on January 1, 2009. Senate Bills 1552 through 1553 would enact similar loan officer registration requirements under the Secondary Mortgage Loan Act, 1981 PA 125, effective April 1, 2009, and would delay the registration requirements under PA 173 to April 1, 2009, as well.

The bills are tie-barred to House Bill 6562, which would amend PA 173 to expand the authority of the Mortgage Industry Advisory Board concerning education requirements of loan officer registrants under the Secondary Mortgage Loan Act. The bill passed the House on November 13, 2009.

### **Senate Bill 1552 - Secondary Mortgage Loan Officer Registration**

The bill would amend the Secondary Mortgage Loan Act, 1981 PA 125, to require secondary mortgage loan officers to be registered by the Department of Labor and Economic Growth, Office of Financial and Insurance Regulation (OFIR), beginning April 1, 2009. Loan officers registered under the Mortgage Brokers, Lenders, and Servicers Licensing Act would be considered registered under the Secondary Mortgage Loan Act (the bill) without having to obtain a second registration. A loan officer could not use the terms "loan officer," "loan originator," or "registrant," or similar terms without obtaining a registration.

*Registration Requirements.* To obtain a registration, an individual would have to undergo a criminal history check by the Department of State Police and the Federal Bureau of Investigation, and file with OFIR an application documenting (1) contact information; (2) whether the applicant has pled guilty or no contest to, or been convicted of, any felony or a misdemeanor involving embezzlement, forgery, fraud, a financial transaction, or securities; (3) whether the applicant previously had an application denied or a license or registration for any profession revoked or suspended; (4) proof the applicant has

successfully completed 24 hours of professional education; (5) passage of a written examination; (6) the results of the background check; and (7) other information as required by the OFIR Commissioner.

Individuals would have to submit an application within 90 days after acting as mortgage loan officer. Applicants can act as a loan officer while the application is pending if the applicant's employer has conducted a criminal history check, and if it does not reveal that the applicant has been convicted of, or pled guilty or no contest to, any felony or a misdemeanor involving embezzlement, forgery, fraud, a financial transaction, or securities.

Individuals who have acted as a mortgage loan officer for at least the past 4½ years would be issued a registration, provided the applicant has no prior criminal history, passes a written examination, and has not been subject to any prohibition orders issued by the OFIR Commissioner. The applicant would not have to meet the professional education requirements. The registration requirements could be waived by the OFIR Commissioner for an applicant who holds a similar license or registration from another state, except if the applicant has a criminal history.

*Disclosure of Public Information.* The bill would permit the OFIR Commissioner to disclose to the public the names, business addresses and business telephone numbers of secondary mortgage loan officer registrants. (Personal information of registrants could not be disclosed.)

*Renewals.* The mortgage loan officer registration would be valid for one year, subject to annual renewal by December 31<sup>st</sup>. Registrants with a criminal history would not have their registration renewed.

*Change of Information.* The bill would require registrants to provide the OFIR Commissioner with written notice 10 days after a change in the employment status, change in personal contact information, or if the registrant pled guilty or no contest to, or was convicted of any felony or a misdemeanor involving embezzlement, forgery, fraud, a financial transaction, or securities. Employers would have to notify the OFIR Commission within 20 days after a change in the employment status of a registrant.

*Fee Schedule.* The act generally provides the OFIR Commissioner the authority to establish a schedule of fees necessary to defray the costs of the office in administering the act, subject to certain limits (minimum and maximum) for specific fees. The act permits a fee of \$50-\$200 for amending or reissuing a license or registration. The bill would reduce the lower limit to \$15. The current fee is \$50. The bill would also specifically authorize the OFIR Commissioner to establish an annual fee on secondary mortgage loan officer registrants that is sufficient to defray the office's costs in administering the registration provisions provided in the bill. Registrants who are also registered under the Mortgage Brokers, Lenders, Servicers, Licensing Act would not be subject to an annual fee.

Currently, fee revenue is credited to the Consumer Finance Fees Account. The bill would redirect fee revenue under the act to the MBLSLA Fund established in the Mortgage Brokers, Lenders, and Servicers Licensing Act.

*Prohibited Acts.* The bill would prohibit secondary mortgage loan officer registrants from engaging in fraud; intentionally withholding material disclosures of information required by law; falsely advertising; withholding adverse information on an application from the OFIR Commissioner; failing to provide required reports; or pleading guilty or no contest to, or being convicted of, any felony or a misdemeanor involving embezzlement, forgery, fraud, a financial transaction, or securities.

*Penalties.* The act imposes a penalty of a fine of \$5,000 and/or 3 years imprisonment for violating the act. The bill, instead, would impose a penalty of a fine of \$15,000 and/or one year imprisonment. [This would be consistent with the penalty provisions of Section 29 of the MBLSL Act, MCL 445.1679.]

#### **Senate Bill 1553 - MBLSLA Fund**

The bill would amend the Mortgage Brokers, Lenders, and Servicers Licensing Act (MCL 445.1658) to expand the revenue sources and allowable uses of the MBLSLA Fund to also include fee revenue and administrative expenses under the Secondary Mortgage Loan Act.

#### **Senate Bill 1554 - First Mortgage Loan Officers**

The bill would amend the Mortgage Brokers, Lenders, and Servicers Licensing Act (MCL 445.1652a) to push back the effective date by which loan officers under the act are required to be registered from January 1, 2009 to April 1, 2009.

In addition, the act currently subjects loan officer registrants to a fingerprint check. The bill would expand this provision to specify that the criminal history check must be conducted by the State Police or the FBI, with the registrant required to pay the appropriate fees required.

#### **Senate Bill 1555**

The bill would amend the Mortgage Brokers, Lenders, and Servicers Licensing Act (MCL 445.1652) to extend the sunset date of a provision prohibiting residential mortgage originators and loan officers from receiving any compensation or other remuneration unless registered. The bill extends the sunset date from December 31, 2008 to March 31, 2009 to conform to the three month delay in implementing the registration requirement.

### **FISCAL IMPACT:**

Senate Bill 1552 would have an indeterminate fiscal impact on the state and local units of government. The bill would require secondary mortgage loan officers to be registered by the Office of Financial and Insurance Regulation, similar to the current registration requirements of loan officers under the Mortgage Brokers, Lenders, and Servicers Licensing Act. For FY 2008-09, OFIR was appropriated 5.0 FTE positions and \$549,000

from the MBLSLA Fund to carry out the registration requirements. These resources would be sufficient to implement the additional registration requirements for loan officers under the Secondary Mortgage Loan Act (the bill). Additionally, the bill would require registration applicants to undergo a criminal history check conducted by the Department of State Police and the FBI with the cost, \$49.25, to be borne by the applicant.

Finally, the bill reduces the penalty provisions under the Secondary Mortgage Loan Act from imprisonment for up to 3 years and/or a penal fine of \$5,000 to a penalty of a fine of \$15,000 and/or one year imprisonment. There currently is no data on the number of violations of the act or the potential for violations of the loan officer registration requirements added by the bill. However, to the extent the bill's reduction in the maximum imprisonment time results in an actual reduction in imprisonment time, the bill would reduce the costs of incarceration at correctional facilities. However, the bill expands the regulatory reach of OFIR by requiring loan officers to be registered, creating the potential additional violations of the act and concomitant costs. Additionally, by increasing the maximum amount of the penal fine imposed for violations, the bill would increase penal fine revenue credited to benefit public libraries in accordance with Article 8, Section 9 of the State Constitution.

Senate Bill 1553 would credit fee revenue under the Secondary Mortgage Loan Act to the MBLSLA Fund established in the Mortgage Brokers, Lenders, and Servicers Licensing Act. This revenue includes fees on secondary mortgage brokers, lenders, and servicers, as well as the new fee imposed by SB 1552 on secondary mortgage loan officer registrants. Currently this revenue is credited to the Consumer Finance Fees Account and used to support the operations of OFIR. Redirecting this revenue would have no direct fiscal impact on OFIR. For FY 2008-09, secondary mortgage fee revenue is estimated to be \$1.1 million under current law. (There would be an additional, and at this time indeterminate, amount of fee revenue from mortgage loan officer registration fees credited to the MBLSLA Fund.) The bill would not re-direct civil fine revenue under the act to the MBLSLA Fund. This revenue, an estimated \$37,000 in FY 2008-09 under current law, would remain within the Consumer Finance Fees Account.

Senate Bill 1554 specifies that loan officer registrants under the Mortgage Brokers, Lenders, and Servicers Licensing Act would undergo a criminal history check conducted by the Department of State Police and the FBI. The cost of this check, \$49.25, would be borne by the applicant. Additionally, the bill delays the effective date of the loan officer registration requirements by three months. This would have no fiscal impact on the Office of Financial and Insurance Regulation.

Senate Bill 1555 would delay other provisions regarding loan officer registrants under the Mortgage Brokers, Lenders, and Servicers Licensing Act by three months. This would have no fiscal impact on the Office of Financial and Insurance Regulation.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.