HOUSE SUBSTITUTE FOR

SENATE BILL NO. 343

A bill to amend 1981 PA 125, entitled

"The secondary mortgage loan act,"

by amending section 27 (MCL 493.77), as amended by 1997 PA 91.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 27. (1) In addition to the penalties provided by this act, a violation of this act with respect to a particular secondary mortgage loan transaction is also subject to the penalty and remedy provisions of the credit reform act, 1995 PA 162, MCL 445.1851 to 445.1864.

(2) A person, association, nonprofit corporation, common law trust, joint stock company, limited liability company, or any other group of individuals, however organized, or any owner, partner, member, officer, director, trustee, employee, agent, broker, or

representative thereof who or which willfully or intentionally ~~engages in this state in the business of making secondary mortgage loans without a license as required under this act,~~ **DOES ANY OF THE FOLLOWING** is guilty of a misdemeanor punishable by a fine of not more than ~~$5,000.00~~ **$15,000.00**, imprisonment for not more than ~~3 years~~ **1 YEAR**, or both: ~~.~~

(A) ENGAGES IN THIS STATE IN THE BUSINESS OF A BROKER, LENDER, OR SERVICER WITHOUT A LICENSE OR REGISTRATION REQUIRED UNDER THIS ACT.

(B) ACTS AS A SECONDARY MORTGAGE LOAN OFFICER IN THIS STATE WITHOUT A SECONDARY MORTGAGE LOAN OFFICER REGISTRATION REQUIRED UNDER THIS ACT.

(C) COERCES OR INDUCES A REAL ESTATE APPRAISER TO INFLATE THE VALUE OF REAL PROPERTY USED AS COLLATERAL FOR A SECONDARY MORTGAGE LOAN, INCLUDING, BUT NOT LIMITED TO, BY DOING ANY OF THE FOLLOWING:

(*i*) REPRESENTING OR IMPLYING THAT A REAL ESTATE APPRAISER WILL NOT BE SELECTED TO CONDUCT AN APPRAISAL OF THE REAL PROPERTY OR SELECTED FOR FUTURE APPRAISAL WORK UNLESS THE APPRAISER AGREES IN ADVANCE TO A VALUE, RANGE OF VALUES, OR MINIMUM VALUE FOR THE REAL PROPERTY.

(*ii*) REPRESENTING OR IMPLYING THAT A REAL ESTATE APPRAISER WILL NOT BE PAID FOR AN APPRAISAL UNLESS THE APPRAISER AGREES IN ADVANCE TO A VALUE, RANGE OF VALUES, OR MINIMUM VALUE FOR THE REAL PROPERTY.

(3) A person who violates this act or directly or indirectly counsels, aids, or abets in a violation is liable, in addition to other penalties and forfeitures imposed by this act, for a civil

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fine of not more than ~~$1,000.00~~ **$3,000.00** for each ~~offense~~ **VIOLATION, EXCEPT THAT A PERSON SHALL NOT BE FINED MORE THAN $30,000.00 FOR A TRANSACTION RESULTING IN MORE THAN 1 VIOLATION, PLUS THE COSTS OF INVESTIGATION**. The civil fine shall be sued for and recovered by the commissioner and shall be collected and enforced by summary proceedings by the attorney general.

(4) Whether or not he or she seeks damages or has an adequate remedy at law, a person, a county prosecutor, or the attorney general may bring an action to do any of the following:

(a) Obtain a declaratory judgment that a method, act, or practice is a violation of this act.

(b) Enjoin a person from engaging in, or who is about to engage in, a method, act, or practice that violates this act.

(c) Recover actual damages resulting from a violation of this act or $250.00, whichever is greater, together with reasonable attorneys' fees and the costs of bringing the action.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

(a) Senate Bill No. 356.

(b) House Bill No. 4054.

[(c) House Bill No. 6148.]