

SUBSTITUTE FOR
SENATE BILL NO. 828

A bill to amend 1987 PA 173, entitled
"Mortgage brokers, lenders, and servicers licensing act,"
by amending the title and section 1a (MCL 445.1651a), section 1a as
amended by 2002 PA 391.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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TITLE

An act to define and regulate mortgage brokers, mortgage
lenders, and mortgage servicers **AND THEIR LOAN OFFICERS**; 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.

Sec. 1a. As used in this act: ~~, unless the context requires~~
~~otherwise.~~

(a) "Affiliate" means a person or group of persons that directly or indirectly through 1 or more intermediaries controls, is controlled by, or is under common control with another person and engaged in a business or transaction regulated by this act.

(B) **"BOARD" MEANS THE MORTGAGE INDUSTRY ADVISORY BOARD CREATED IN SECTION 33.**

(C) ~~(b)~~ "Commissioner" means the commissioner of the office of financial and insurance services of the department of ~~consumer and industry services~~ **LABOR AND ECONOMIC GROWTH** or his or her authorized agent.

(D) ~~(c)~~ "Construction loan" means a mortgage loan ~~for the purpose of constructing~~ **TO CONSTRUCT** a 1-to-4 family dwelling, ~~which loan~~ **THAT** is approved and closed before completion of the construction of the improvement on the real property.

(E) ~~(d)~~ "Control person" means a director or executive officer of a licensee **OR REGISTRANT** or a person who has the authority to participate in the direction, directly or indirectly through 1 or more other persons, of the management or policies of a licensee or registrant.

(F) ~~(e)~~ "Depository financial institution" means a state or nationally chartered bank, a state or federally chartered savings and loan association, savings bank, or credit union, or an entity of the federally chartered farm credit system.

(G) ~~(f)~~ "Executive officer" means an officer, member, or partner of a licensee or registrant. ~~including~~ **THE TERM INCLUDES** **THE** chief executive officer, president, vice president, chief financial officer, controller, **OR** compliance officer ~~or~~ **AN**

1 **INDIVIDUAL HOLDING** any other similar position.

2 (H) ~~(g)~~ "Financial licensing act" means the consumer financial
3 services act, 1988 PA 161, MCL 487.2051 to 487.2072, and any of the
4 acts listed in section 2 of the consumer financial services act,
5 1988 PA 161, MCL 487.2052.

6 (I) ~~(h)~~ "Firm commitment" means an underwriting in which a
7 broker-dealer commits to buy the mortgage loan or the entire issue
8 of securities based upon or backed by 1 or more mortgage loans and
9 assumes all financial responsibility for any unsold securities.

10 (J) ~~(i)~~ "Individual investor" means a person ~~residing~~ **THAT**
11 **RESIDES** in this state or ~~having~~ **HAS** its principal place of business
12 in this state. ~~, other than~~ **THE TERM DOES NOT INCLUDE** a bank,
13 savings bank, savings and loan association, credit union, trust
14 company, insurance company, investment company as defined in the
15 investment company act of 1940, ~~title I of chapter 686, 54 Stat.~~
16 ~~789, 15 U.S.C. USC 80a-1 to 80a-3 and 80a-4 to 80a-64,~~ pension or
17 profit sharing plan ~~, IF~~ the assets of ~~which~~ **THE PLAN** are managed
18 by a bank or trust company or other institutional manager,
19 financial institution, institutional manager, broker-dealer that is
20 a member of the New York stock exchange or registered under the
21 uniform securities act, 1964 PA 265, MCL 451.501 to 451.818, the
22 federal national mortgage association, the government national
23 mortgage association, the federal home loan mortgage corporation,
24 or a mortgage lender or mortgage servicer.

25 (K) ~~(j)~~ "License" means a license issued under this act.

26 (L) ~~(k)~~ "Licensee" means a person licensed or required to be
27 licensed under this act.

(M) "LOAN OFFICER" MEANS AN INDIVIDUAL WHO IS AN EMPLOYEE OR AGENT OF A MORTGAGE BROKER, MORTGAGE LENDER, OR MORTGAGE SERVICER; WHO ORIGINATES MORTGAGE LOANS; AND WHO IS NOT AN EMPLOYEE OR AGENT OF A DEPOSITORY FINANCIAL INSTITUTION OR A SUBSIDIARY OR AFFILIATE OF A DEPOSITORY FINANCIAL INSTITUTION.

(N) "LOAN OFFICER REGISTRANT" MEANS AN INDIVIDUAL WHO IS CURRENTLY REGISTERED UNDER SECTION 2A.

(O) ~~(l)~~ "Mortgage broker" means a person who, directly or indirectly, does 1 or both of the following:

(i) Serves or offers to serve as an agent for a person in an attempt to obtain a mortgage loan.

(ii) Serves or offers to serve as an agent for a person who makes or offers to make mortgage loans.

(P) ~~(m)~~ "Mortgage lender" means a person who, directly or indirectly, makes or offers to make mortgage loans.

(Q) ~~(n)~~ "Mortgage loan" means a loan secured by a first mortgage on real property located in this state and used, or improved ~~to be used~~ **FOR USE**, as a dwelling and designed for occupancy by 4 or fewer families or a land contract covering real property located in this state used, or improved ~~to be used~~ **FOR USE**, as a dwelling and designed for occupancy by 4 or fewer families. A mortgage loan does not include a home improvement installment contract under the home improvement finance act, 1965 PA 332, MCL 445.1101 to 445.1431.

(R) ~~(o)~~ "Mortgage servicer" means a person who, directly or indirectly, services or offers to service mortgage loans.

(S) "ORIGINATE" MEANS ANY OF THE FOLLOWING:

1 (i) TO NEGOTIATE, ARRANGE, OR OFFER TO NEGOTIATE OR ARRANGE A
2 MORTGAGE LOAN BETWEEN A MORTGAGE LENDER AND 1 OR MORE INDIVIDUALS.

3 (ii) TO PLACE, ASSIST IN PLACING, OR FIND A MORTGAGE LOAN FOR 1
4 OR MORE INDIVIDUALS.

5 (T) ~~(p)~~ "Person" means an individual, corporation, **LIMITED**
6 **LIABILITY COMPANY**, partnership, association, governmental entity,
7 or any other legal entity.

8 (U) ~~(q)~~ "Real estate broker" means a broker or associate
9 broker licensed under article 25 of the occupational code, 1980 PA
10 299, MCL 339.2501 to 339.2518.

11 (V) ~~(r)~~ "Real estate salesperson" means a salesperson licensed
12 under article 25 of the occupational code, 1980 PA 299, MCL
13 339.2501 to 339.2518.

14 (W) ~~(s)~~ "Register" means filing a notice with the commissioner
15 on a form prescribed by the commissioner that notifies the
16 commissioner of the intent to engage in the activities of a
17 mortgage broker, mortgage lender, ~~or~~ mortgage servicer, **OR LOAN**
18 **OFFICER** in this state and the payment of any fees required under
19 this act, along with the other documents, proofs, and fees required
20 by the commissioner.

21 (X) ~~(t)~~ "Registrant" means a person **THAT IS** registered **UNDER**
22 **SECTION 6** or required to ~~be registered~~ **REGISTER** under ~~this act~~
23 **SECTION 6. THE TERM DOES NOT INCLUDE A LOAN OFFICER REGISTRANT.**

24 (Y) ~~(u)~~ "Service" means the collection or remittance, or the
25 right or obligation to collect or remit, for a lender, noteowner,
26 noteholder, mortgage servicer, or the licensee's or registrant's
27 own account of 4 or more installment payments of the principal,

1 interest, or an amount placed in escrow under a mortgage loan,
2 mortgage servicing agreement, or an agreement with the mortgagor.

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

6 (a) Senate Bill No. 826.

7 (b) Senate Bill No. 827.

8 (c) Senate Bill No. 829.

9 (d) Senate Bill No. 830.

10 (e) Senate Bill No. 831.

11 (f) Senate Bill No. 832.

12 (g) Senate Bill No. 833.

13 (h) House Bill No. 5287.

14 (i) House Bill No. 5288.

15 (j) House Bill No. 5289.

16 (k) House Bill No. 5290.

17 (l) House Bill No. 5291.