

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 1552

A bill to amend 1981 PA 125, entitled
"The secondary mortgage loan act,"
by amending the title and sections 1, 2, 6, 6a, 6b, 11, 13, 20, 22,
and 27 (MCL 493.51, 493.52, 493.56, 493.56a, 493.56b, 493.61,
493.63, 493.70, 493.72, and 493.77), the title and sections 6, 11,
13, 20, 22, and 27 as amended and section 6a as added by 1997 PA
91, sections 1 and 6b as amended by 2002 PA 392, and section 2 as
amended by 2007 PA 46, and by adding sections 2a, 2b, 2c, 2d, and
26a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

TITLE

2

An act to regulate secondary mortgage loans; **TO REGULATE**

1 **SECONDARY MORTGAGE BROKERS, LENDERS, SERVICERS, AND LOAN OFFICERS;**
 2 to prescribe powers and duties of certain state agencies and
 3 officials; to require certain fees; to provide for the
 4 establishment of a revolving fund; to provide for the promulgation
 5 of rules; and to **PROVIDE REMEDIES AND** prescribe ~~civil fines and~~
 6 penalties.

7 Sec. 1. (1) This act shall be known and may be cited as "the
 8 secondary mortgage loan act".

9 (2) As used in this act:

10 (a) "Broker" means a person who, directly or indirectly, does
 11 1 or both of the following:

12 (i) Serves or offers to serve as an agent for a person
 13 attempting to obtain a secondary mortgage loan.

14 (ii) Serves or offers to serve as an agent for a person who
 15 makes or offers to make a secondary mortgage loan.

16 (b) "Commissioner" means the commissioner of the office of
 17 financial and insurance ~~services~~**REGULATION** of the department of
 18 ~~consumer and industry services and any~~**ENERGY, LABOR, AND ECONOMIC**
 19 **GROWTH OR HIS OR HER** authorized representatives. ~~of the~~
 20 ~~commissioner.~~

21 (c) "Control person" means a director or executive officer of
 22 a licensee or registrant or a person who has the authority to
 23 participate in the direction, directly or indirectly through 1 or
 24 more other persons, of the management or policies of a licensee or
 25 registrant.

26 (d) "Depository financial institution" means a state or
 27 nationally chartered bank, state or federal chartered savings and

1 loan association, savings bank, or credit union, or any other
2 institution whose deposits are insured by an agency of the federal
3 government.

4 (e) "Exclusive broker" means a person that brokers secondary
5 mortgage loans solely to 1 licensee or registrant, is compensated
6 solely by that licensee or registrant, and is indemnified by the
7 licensee or registrant as provided in section 6. The actions or
8 practices of an exclusive broker in brokering a secondary mortgage
9 loan are the actions or practices of the licensee or registrant.

10 (f) "Executive officer" means an officer, member, or partner
11 of a licensee or registrant. ~~, including~~ **THE TERM INCLUDES THE**
12 chief executive officer, president, vice president, chief financial
13 officer, controller, **OR** compliance officer, or **AN INDIVIDUAL**
14 **HOLDING** any other similar position.

15 (g) "Financial licensing act" means ~~the consumer financial~~
16 ~~services act, 1988 PA 161, MCL 487.2051 to 487.2072, and any act~~
17 ~~listed~~ **ANY OF THE FINANCIAL LICENSING ACTS, AS THAT TERM IS DEFINED**
18 in section 2 of the consumer financial services act, 1988 PA 161,
19 MCL 487.2052.

20 (h) "Lender" means a person who, directly or indirectly, makes
21 or offers to make secondary mortgage loans.

22 (i) "Licensee" means a person licensed or required to be
23 licensed under this act. ~~A licensee does not include a depository~~
24 ~~financial institution.~~

25 (j) "Loan servicing customer" means a mortgagor whose
26 secondary mortgage loan is being serviced by a servicer.

27 (k) "Open-end credit" means credit extended under a plan in

1 which both of the following apply:

2 (i) The licensee or registrant reasonably contemplates repeated
3 transactions.

4 (ii) The amount of credit that may be extended to the borrower
5 during the term of the plan is generally made available to the
6 extent that any part of the outstanding balance is repaid.

7 (l) "ORIGINATE" MEANS ANY OF THE FOLLOWING:

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

10 (ii) TO PLACE, ASSIST IN PLACING, OR FIND A SECONDARY MORTGAGE
11 LOAN FOR 1 OR MORE INDIVIDUALS.

12 (M) ~~(l)~~—"Person" means an individual, corporation, LIMITED
13 LIABILITY COMPANY, partnership, association, or other legal entity.

14 (N) ~~(m)~~—"Registrant" means a person **THAT IS** registered or
15 required to be registered under this act. ~~A registrant does not~~
16 ~~include a REGISTER AS A BROKER, LENDER, OR SERVICER UNDER THIS ACT.~~
17 **THE TERM DOES NOT INCLUDE A SECONDARY MORTGAGE LOAN OFFICER**
18 **REGISTRANT OR** depository financial institution.

19 (O) ~~(n)~~—"Secondary mortgage loan" means a loan that ~~is not to~~
20 ~~be repaid within 90 days,~~ **HAS A TERM OF 90 DAYS OR MORE;** that is
21 made to a person for personal, family, or household purposes; ~~7~~—and
22 that is secured by a mortgage ~~upon~~ **ON** an interest in real property
23 **THAT IS** used as a dwelling ~~if the property~~ **AND** is subject to a lien
24 of 1 or more ~~prior~~ **OUTSTANDING** mortgages. ~~The~~ **A SECONDARY MORTGAGE**
25 loan may be secured by other collateral in addition to real
26 property. Notwithstanding the place of execution, nominal or real,
27 of a secondary mortgage loan, if the real property that secures the

1 loan is located in this state, ~~the~~**A** secondary mortgage loan is
 2 subject to this act and all other applicable laws of this state.

3 (P) "SECONDARY MORTGAGE LOAN OFFICER" MEANS AN INDIVIDUAL WHO
 4 IS AN EMPLOYEE OR AGENT OF A BROKER, LENDER, OR SERVICER; WHO
 5 ORIGINATES SECONDARY MORTGAGE LOANS; AND WHO IS NOT AN EMPLOYEE OF
 6 A DEPOSITORY FINANCIAL INSTITUTION OR A SUBSIDIARY OR AFFILIATE OF
 7 A DEPOSITORY FINANCIAL INSTITUTION.

8 (Q) "SECONDARY MORTGAGE LOAN OFFICER REGISTRANT" MEANS EITHER
 9 OF THE FOLLOWING:

10 (i) AN INDIVIDUAL WHO IS CURRENTLY REGISTERED UNDER SECTION 2A
 11 OR 2C.

12 (ii) AN INDIVIDUAL WHO IS NOT REQUIRED TO REGISTER TO PERFORM
 13 SERVICES OF A SECONDARY MORTGAGE LOAN OFFICER UNDER SECTION 2A(9).

14 (R) ~~(e)~~"Service" means the collection or remittance for a
 15 lender, noteowner, **OR** noteholder ~~,~~ or ~~the~~**A** licensee's own account
 16 of 4 or more installment payments of the principal **OF**, interest **OF**,
 17 or an amount placed in escrow under a secondary mortgage loan,
 18 mortgage servicing agreement, or an agreement with ~~the~~**A** mortgagor.

19 (S) ~~(p)~~"Servicer" means a person who, directly or indirectly,
 20 services or offers to service secondary mortgage loans.

21 Sec. 2. (1) A person shall not act as a broker, lender, or
 22 servicer without first obtaining a license ~~or registering~~ under
 23 this act **OR REGISTERING UNDER SECTION 3A**, unless 1 or more of the
 24 following apply:

25 (a) The person is ~~solely performing~~ **PROVIDING SECONDARY**
 26 **MORTGAGE LOAN OFFICER** services as an employee **OR AGENT** of only 1
 27 broker, lender, or servicer **AND IS REGISTERED AS A SECONDARY**

1 MORTGAGE LOAN OFFICER REGISTRANT IF THAT REGISTRATION IS REQUIRED
2 UNDER THIS ACT.

3 (b) The person is an exclusive broker. **THIS SUBDIVISION DOES**
4 **NOT APPLY AFTER MARCH 31, 2009.**

5 (c) The person is licensed under the consumer financial
6 services act, 1988 PA 161, MCL 487.2051 to 487.2072.

7 (d) The person acts as a lender but makes or negotiates 2 or
8 fewer secondary mortgage loans in a calendar year.

9 (e) The person acts as a servicer but services 10 or fewer
10 secondary mortgage loans in a calendar year.

11 (f) The person is an individual and an employee of a
12 professional employer organization, as that term is defined in
13 ~~section 4 of the single business tax act, 1975 PA 228, MCL 208.4~~
14 **SECTION 113 OF THE MICHIGAN BUSINESS TAX ACT, 2007 PA 36, MCL**
15 **208.1113**, solely acting as a secondary mortgage loan originator of
16 only 1 broker or lender. The broker or lender shall do all of the
17 following:

18 (i) Direct and control the activities of the individual under
19 this act.

20 (ii) Be responsible for all activities of the individual and
21 assume responsibility for the individual's actions that are covered
22 by the proof of financial responsibility deposit required under
23 section 6.

24 (2) By October 31, 1997, a servicer that was exempt from
25 regulation under this act shall either file with the commissioner
26 an application for a license or registration under section 3 or
27 discontinue all activities subject to this act.

1 (3) Except for a state or nationally chartered bank, savings
2 bank, or an affiliate of a bank or savings bank, a person subject
3 to this act shall not include in its name or assumed name the words
4 "bank", "banker", "banc", "bankcorp", "bancorp", or any other words
5 or phrases that would imply that the person is a bank, is engaged
6 in the business of banking, or is affiliated with a bank or savings
7 bank. It is not a violation of this subsection for a licensee to
8 use the term "mortgage banker" or "mortgage banking" in its name or
9 assumed name.

10 (4) A person subject to this act whose name or assumed name on
11 January 1, 1997 contained a word prohibited by subsection (3) may
12 continue to use that name or assumed name.

13 **SEC. 2A. (1) BEGINNING APRIL 1, 2009, AN EMPLOYEE OR AGENT OF**
14 **A LICENSEE OR REGISTRANT, OTHER THAN AN INDIVIDUAL DESCRIBED IN**
15 **SUBSECTION (9), SHALL NOT PERFORM SERVICES OF A SECONDARY MORTGAGE**
16 **LOAN OFFICER UNLESS HE OR SHE REGISTERS OR OTHERWISE COMPLIES WITH**
17 **THIS SECTION.**

18 **(2) A LICENSEE OR REGISTRANT THAT EMPLOYS OR OFFERS TO EMPLOY,**
19 **OR ENGAGES OR OFFERS TO ENGAGE AS AN AGENT, AN INDIVIDUAL, OTHER**
20 **THAN AN INDIVIDUAL DESCRIBED IN SUBSECTION (9), AS A SECONDARY**
21 **MORTGAGE LOAN OFFICER TO ORIGINATE SECONDARY MORTGAGE LOANS AFTER**
22 **MARCH 31, 2009 SHALL CONDUCT A CRIMINAL HISTORY CHECK OF THAT**
23 **INDIVIDUAL. ALL OF THE FOLLOWING APPLY TO THE CRIMINAL HISTORY**
24 **CHECK OF AN INDIVIDUAL REQUIRED UNDER THIS SUBSECTION:**

25 **(A) THE DEPARTMENT OF STATE POLICE AND THE FEDERAL BUREAU OF**
26 **INVESTIGATION SHALL PERFORM THE CRIMINAL HISTORY CHECK REQUIRED**
27 **UNDER THIS SUBSECTION.**

1 (B) THE INDIVIDUAL WHO IS THE SUBJECT OF THE CRIMINAL HISTORY
2 CHECK SHALL HAVE HIS OR HER FINGERPRINTS TAKEN BY A LAW ENFORCEMENT
3 AGENCY OR BY ANOTHER PERSON THAT THE COMMISSIONER DETERMINES IS
4 QUALIFIED TO TAKE FINGERPRINTS; PAY THE AGENCY OR PERSON THE FEES
5 REQUIRED BY THE DEPARTMENT OF STATE POLICE UNDER SECTION 3 OF 1935
6 PA 120, MCL 28.273, AND BY THE FEDERAL BUREAU OF INVESTIGATION, FOR
7 PROCESSING FINGERPRINTS AND COMPLETING A CRIMINAL HISTORY CHECK;
8 AND REQUEST THAT THE AGENCY OR PERSON FORWARD THE FINGERPRINTS, A
9 REQUEST FOR A CRIMINAL HISTORY CHECK OF THE INDIVIDUAL IN THE
10 FORMAT AND AS PRESCRIBED BY THE DEPARTMENT OF STATE POLICE, AND THE
11 FEES TO THE DEPARTMENT OF STATE POLICE.

12 (C) THE DEPARTMENT OF STATE POLICE SHALL FORWARD THE
13 FINGERPRINTS AND APPROPRIATE FEE TO THE FEDERAL BUREAU OF
14 INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY CHECK.

15 (D) AFTER RECEIVING A PROPER REQUEST AND THE REQUIRED FEES
16 UNDER THIS SUBSECTION, THE DEPARTMENT OF STATE POLICE SHALL CONDUCT
17 THE CRIMINAL HISTORY CHECK AND PROVIDE THE LICENSEE OR REGISTRANT
18 WITH THE RESULTS OF THE CRIMINAL HISTORY CHECK. THE RESULTS SHALL
19 CONTAIN ANY CRIMINAL HISTORY RECORD INFORMATION CONCERNING THE
20 INDIVIDUAL MAINTAINED BY THE DEPARTMENT OF STATE POLICE AND THE
21 RESULTS OF THE FEDERAL BUREAU OF INVESTIGATION'S CRIMINAL HISTORY
22 CHECK.

23 (E) THE LICENSEE OR REGISTRANT SHALL SUBMIT THE RESULTS OF THE
24 CRIMINAL HISTORY CHECK DESCRIBED IN SUBDIVISION (D) TO THE
25 COMMISSIONER WITH THE APPLICATION FOR SECONDARY MORTGAGE LOAN
26 OFFICER REGISTRATION DESCRIBED IN SUBSECTION (4) OR FOR PURPOSES OF
27 SUBSECTION (5).

1 (F) THE CRIMINAL HISTORY CHECK REQUIRED UNDER THIS SUBSECTION
2 MAY BE CONDUCTED BY THE LICENSEE OR REGISTRANT, REQUESTED OF AND
3 PERFORMED BY THE DEPARTMENT OF STATE POLICE AND THE FEDERAL BUREAU
4 OF INVESTIGATION, AND SUBMITTED TO THE COMMISSIONER AT ANY TIME ON
5 OR AFTER JANUARY 1, 2009.

6 (G) IF A CRIMINAL ARREST FINGERPRINT CARD IS SUBSEQUENTLY
7 SUBMITTED TO THE DEPARTMENT OF STATE POLICE AND MATCHES AGAINST A
8 FINGERPRINT THAT WAS SUBMITTED UNDER THIS SUBSECTION AND STORED BY
9 THE DEPARTMENT OF STATE POLICE IN ITS AUTOMATED FINGERPRINT
10 IDENTIFICATION SYSTEM (AFIS) DATABASE, THE DEPARTMENT OF STATE
11 POLICE SHALL NOTIFY THE COMMISSIONER.

12 (3) BEGINNING APRIL 1, 2009, IF AN INDIVIDUAL, OTHER THAN AN
13 INDIVIDUAL DESCRIBED IN SUBSECTION (9), IS EMPLOYED OR ENGAGED AS
14 AN AGENT TO ORIGINATE SECONDARY MORTGAGE LOANS BY A LICENSEE OR
15 REGISTRANT, THAT INDIVIDUAL SHALL APPLY FOR SECONDARY MORTGAGE LOAN
16 OFFICER REGISTRATION UNDER THIS SECTION WITHIN 90 DAYS AFTER HE OR
17 SHE BEGINS PROVIDING SERVICES AS AN EMPLOYEE OR AGENT OF THE
18 LICENSEE OR REGISTRANT, BY SUBMITTING THE APPLICATION DESCRIBED IN
19 SUBSECTION (4), IN WRITING, AND INCLUDING WITH THE APPLICATION THE
20 ANNUAL OPERATING FEE ESTABLISHED UNDER SECTION 6A(6).

21 (4) THE COMMISSIONER SHALL PRESCRIBE THE FORM OF APPLICATION
22 FOR REGISTRATION AS A SECONDARY MORTGAGE LOAN OFFICER. SUBJECT TO
23 SUBSECTION (8), THE APPLICATION FORM SHALL REQUIRE THAT AN
24 APPLICANT PROVIDE AT LEAST ALL OF THE FOLLOWING TO THE
25 COMMISSIONER:

26 (A) THE NAME AND HOME ADDRESS OF THE APPLICANT.

27 (B) A STATEMENT AS TO WHETHER THE APPLICANT HAS EVER BEEN

1 CONVICTED OF, OR PLED NO CONTEST TO, ANY OF THE FOLLOWING:

2 (i) A MISDEMEANOR INVOLVING EMBEZZLEMENT, FORGERY, FRAUD, A
3 FINANCIAL TRANSACTION, OR SECURITIES.

4 (ii) A FELONY.

5 (C) A STATEMENT AS TO WHETHER THE APPLICANT HAS HAD AN
6 APPLICATION DENIED, OR A LICENSE, REGISTRATION, OR SIMILAR
7 AUTHORITY REVOKED OR SUSPENDED, TO PRACTICE ANY PROFESSION OR
8 OCCUPATION IN ANY JURISDICTION, INCLUDING, BUT NOT LIMITED TO,
9 LICENSURE OR REGISTRATION AS A BROKER, LENDER, OR SERVICER IN WHICH
10 THE APPLICANT HELD MORE THAN 25% OF THE OWNERSHIP INTEREST OR AS A
11 SECONDARY MORTGAGE LOAN OFFICER.

12 (D) EXCEPT FOR AN APPLICATION DESCRIBED IN SUBSECTION (7),
13 PROOF IN THE FORM OF A CERTIFICATE OF COMPLETION OR OTHER EVIDENCE
14 ACCEPTABLE TO THE COMMISSIONER THAT THE APPLICANT HAS COMPLETED AT
15 LEAST 24 HOURS OF LIVE PROFESSIONAL CLASSROOM INSTRUCTION IN THIS
16 STATE IN AN INTRODUCTORY COURSE IN RESIDENTIAL MORTGAGE LENDING
17 THAT IS SPONSORED OR PROVIDED BY A PERSON, AND TAUGHT BY AN
18 INSTRUCTOR, APPROVED BY THE COMMISSIONER. THE 24 HOURS OF
19 INSTRUCTION SHALL INCLUDE AT LEAST 3 HOURS OF LIVE CLASSROOM
20 INSTRUCTION CONCERNING STATE AND FEDERAL LAWS AND REGULATIONS
21 GOVERNING RESIDENTIAL MORTGAGE LENDING, THE CONTENT OF WHICH HAS
22 BEEN APPROVED BY THE COMMISSIONER.

23 (E) EVIDENCE ACCEPTABLE TO THE COMMISSIONER THAT THE APPLICANT
24 CORRECTLY ANSWERED AT LEAST 75% OF THE QUESTIONS ON AN EXAMINATION
25 APPROVED BY THE COMMISSIONER THAT TESTS AN APPLICANT'S KNOWLEDGE OF
26 THE CONTENTS OF THE INTRODUCTORY COURSE IN RESIDENTIAL MORTGAGE
27 LENDING DESCRIBED IN SUBDIVISION (D).

1 (F) THE RESULTS OF THE CRIMINAL HISTORY CHECK DESCRIBED IN
2 SUBSECTION (2).

3 (G) THE SIGNATURE OF THE APPLICANT AND HIS OR HER DECLARATION
4 THAT THE INFORMATION AND STATEMENTS MADE IN OR INCLUDED WITH THE
5 APPLICATION ARE TRUE, ACCURATE, AND COMPLETE.

6 (H) THE SIGNATURE OF AN EXECUTIVE OFFICER ON BEHALF OF THE
7 LICENSEE OR REGISTRANT THAT EMPLOYS OR OFFERS TO EMPLOY, OR ENGAGES
8 OR OFFERS TO ENGAGE AS AN AGENT, THE APPLICANT, AND THE EXECUTIVE
9 OFFICER'S CERTIFICATION ON BEHALF OF THE LICENSEE OR REGISTRANT
10 THAT THE INFORMATION AND STATEMENTS IN OR INCLUDED WITH THE
11 APPLICATION ARE TRUE, ACCURATE, AND COMPLETE TO THE BEST OF HIS OR
12 HER KNOWLEDGE AND BELIEF.

13 (I) ANY OTHER INFORMATION REQUIRED BY THE COMMISSIONER.

14 (5) BEGINNING APRIL 1, 2009, AN APPLICANT FOR SECONDARY
15 MORTGAGE LOAN OFFICER REGISTRATION MAY PERFORM SERVICES AS A
16 SECONDARY MORTGAGE LOAN OFFICER WHILE HIS OR HER APPLICATION IS
17 PENDING IF ALL OF THE FOLLOWING ARE MET:

18 (A) THE LICENSEE OR REGISTRANT THAT IS THE EMPLOYER OR
19 PRINCIPAL OF THE APPLICANT HAS COMPLETED THE CRIMINAL HISTORY CHECK
20 OF THE APPLICANT DESCRIBED IN SUBSECTION (2) AND SUBMITTED THE
21 RESULTS OF THAT CRIMINAL HISTORY CHECK TO THE COMMISSIONER.

22 (B) THE CRIMINAL HISTORY CHECK DESCRIBED IN SUBDIVISION (A)
23 DOES NOT DISCLOSE THAT THE APPLICANT HAS BEEN CONVICTED OF, OR PLED
24 NO CONTEST TO, ANY OF THE FOLLOWING:

25 (i) A FELONY OR MISDEMEANOR INVOLVING EMBEZZLEMENT, FORGERY,
26 FRAUD, A FINANCIAL TRANSACTION, OR SECURITIES.

27 (ii) WITHIN THE 10-YEAR PERIOD PRECEDING THE DATE OF THE

1 APPLICATION, A FELONY OTHER THAN A FELONY DESCRIBED IN SUBPARAGRAPH
2 (i).

3 (C) THE LICENSEE OR REGISTRANT THAT IS THE EMPLOYER OR
4 PRINCIPAL OF THE APPLICANT HAS PROVIDED THE COMMISSIONER WITH
5 WRITTEN NOTICE THAT THE APPLICANT IS BEGINNING TO PROVIDE SERVICES
6 AS A SECONDARY MORTGAGE LOAN OFFICER FOR THE LICENSEE OR
7 REGISTRANT.

8 (6) THE COMMISSIONER SHALL NOT ISSUE A REGISTRATION TO ANY OF
9 THE FOLLOWING:

10 (A) AN APPLICANT WHO HAS BEEN CONVICTED OF, OR PLED NO CONTEST
11 TO, ANY OF THE FOLLOWING:

12 (i) A FELONY OR MISDEMEANOR INVOLVING EMBEZZLEMENT, FORGERY,
13 FRAUD, A FINANCIAL TRANSACTION, OR SECURITIES.

14 (ii) WITHIN THE 10-YEAR PERIOD PRECEDING THE DATE OF THE
15 APPLICATION, A FELONY OTHER THAN A FELONY DESCRIBED IN SUBPARAGRAPH
16 (i).

17 (B) AN APPLICANT AGAINST WHOM THE COMMISSIONER HAS ISSUED A
18 PROHIBITION ORDER UNDER SECTION 14A.

19 (C) AN APPLICANT FOR WHOM THE COMMISSIONER HAS NOT RECEIVED
20 THE RESULTS OF THE CRIMINAL HISTORY CHECK DESCRIBED IN SUBSECTION
21 (2).

22 (D) AN INDIVIDUAL DESCRIBED IN SUBSECTION (9).

23 (7) THE COMMISSIONER MUST REGISTER A SECONDARY MORTGAGE LOAN
24 OFFICER WHO MEETS ALL OF THE FOLLOWING:

25 (A) FOR THE 5-YEAR PERIOD IMMEDIATELY PRECEDING THE EFFECTIVE
26 DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION, HE OR SHE WAS
27 EMPLOYED OR ENGAGED AS A SECONDARY MORTGAGE LOAN OFFICER FOR AT

1 LEAST 4-1/2 YEARS BY 1 OR MORE LICENSEES, REGISTRANTS, OR PERSONS
2 EXEMPT FROM THIS ACT UNDER SECTION 29 OR 29A.

3 (B) HE OR SHE WAS NOT THE SUBJECT OF ANY PROHIBITION ORDERS
4 ISSUED BY THE COMMISSIONER UNDER SECTION 14A IN THE 5-YEAR PERIOD
5 IMMEDIATELY PRECEDING THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT
6 ADDED THIS SECTION.

7 (C) BEFORE APRIL 1, 2009, HE OR SHE TAKES THE EXAMINATION
8 DESCRIBED IN SUBSECTION (4) (E) AND CORRECTLY ANSWERS AT LEAST 75%
9 OF THE QUESTIONS ON THE EXAMINATION.

10 (D) BEFORE APRIL 1, 2009, HE OR SHE SUBMITS AN APPLICATION
11 UNDER SUBSECTION (4). HOWEVER, THE APPLICANT IS NOT REQUIRED TO
12 COMPLETE OR SUBMIT PROOF OF COMPLETION OF THE INSTRUCTION DESCRIBED
13 IN SUBSECTION (4) (D).

14 (E) HE OR SHE IS NOT AN APPLICANT DESCRIBED IN SUBSECTION (6).

15 (8) THE COMMISSIONER MAY WAIVE ANY OF THE REQUIREMENTS OF THIS
16 SECTION FOR SECONDARY MORTGAGE LOAN OFFICER REGISTRATION IF THE
17 APPLICANT HAS A VALID, SIMILAR LICENSE OR REGISTRATION FROM ANOTHER
18 STATE THAT HAS A RECIPROCAL AGREEMENT WITH THE COMMISSIONER, EXCEPT
19 SUBSECTION (6) (A) AND (C).

20 (9) BEGINNING APRIL 1, 2009, AN INDIVIDUAL WHO MEETS ALL OF
21 THE FOLLOWING MAY PERFORM SERVICES OF A SECONDARY MORTGAGE LOAN
22 OFFICER WITHOUT REGISTERING UNDER OR OTHERWISE COMPLYING WITH THIS
23 SECTION:

24 (A) IS AN EMPLOYEE OR AGENT OF A BROKER, LENDER, OR SERVICER
25 THAT IS ALSO A MORTGAGE BROKER, MORTGAGE LENDER, OR MORTGAGE
26 SERVICER UNDER THE MORTGAGE BROKERS, LENDERS, AND SERVICERS
27 LICENSING ACT, 1987 PA 173, MCL 445.1651 TO 445.1684.

1 (B) IS CURRENTLY REGISTERED AS A LOAN OFFICER UNDER THE
2 MORTGAGE BROKERS, LENDERS, AND SERVICERS LICENSING ACT, 1987 PA
3 173, MCL 445.1651 TO 445.1684.

4 (10) AN INDIVIDUAL DESCRIBED IN SUBSECTION (9) IS CONSIDERED A
5 SECONDARY MORTGAGE LOAN OFFICER REGISTRANT FOR PURPOSES OF THIS
6 ACT.

7 SEC. 2B. (1) THE COMMISSIONER MAY DISCLOSE, PROVIDE, OR MAKE
8 AVAILABLE TO THE PUBLIC THE NAMES, BUSINESS ADDRESSES, AND BUSINESS
9 TELEPHONE NUMBERS OF SECONDARY MORTGAGE LOAN OFFICER REGISTRANTS.
10 THE COMMISSIONER SHALL NOT DISCLOSE, PROVIDE, OR MAKE AVAILABLE TO
11 THE PUBLIC ANY OTHER PERSONAL IDENTIFYING INFORMATION ABOUT
12 SECONDARY MORTGAGE LOAN OFFICER REGISTRANTS OR APPLICANTS FOR
13 SECONDARY MORTGAGE LOAN OFFICER REGISTRATION.

14 (2) BEGINNING APRIL 1, 2009, AN INDIVIDUAL EMPLOYED OR ENGAGED
15 AS AN AGENT BY A LICENSEE OR REGISTRANT AS A SECONDARY MORTGAGE
16 LOAN OFFICER SHALL NOT USE THE TITLE OR DESIGNATION "LOAN OFFICER",
17 "LOAN ORIGINATOR", "MORTGAGE LOAN OFFICER", "MORTGAGE LOAN
18 ORIGINATOR", "SECONDARY MORTGAGE LOAN OFFICER", OR "SECONDARY
19 MORTGAGE LOAN ORIGINATOR" IF HE OR SHE IS NOT A SECONDARY MORTGAGE
20 LOAN OFFICER REGISTRANT. A SECONDARY MORTGAGE LOAN OFFICER
21 REGISTRANT AND THE EMPLOYER OR PRINCIPAL OF A SECONDARY MORTGAGE
22 LOAN OFFICER REGISTRANT SHALL NOT USE THE WORD "REGISTERED",
23 "CERTIFIED", OR ANY WORD OF SIMILAR IMPORT IN HIS OR HER TITLE OR
24 DESIGNATION TO IDENTIFY HIM OR HER AS AN INDIVIDUAL WHO HAS MET THE
25 REGISTRATION REQUIREMENTS OF THIS ACT UNLESS USE OF THAT WORD IS
26 APPROVED BY THE OFFICE OF FINANCIAL AND INSURANCE REGULATION.

27 (3) BEGINNING APRIL 1, 2009, A SECONDARY MORTGAGE LOAN OFFICER

1 SHALL NOT DIRECTLY OR INDIRECTLY RECEIVE ANY COMPENSATION,
2 COMMISSION, FEE, POINTS, OR OTHER REMUNERATION OR BENEFITS FOR
3 ORIGINATING A SECONDARY MORTGAGE LOAN UNLESS BOTH OF THE FOLLOWING
4 ARE MET:

5 (A) THE SECONDARY MORTGAGE LOAN OFFICER IS A SECONDARY
6 MORTGAGE LOAN OFFICER REGISTRANT OR EXEMPT UNDER SECTION 2A(9).

7 (B) THE COMPENSATION, COMMISSION, FEE, POINTS, OR OTHER
8 REMUNERATION OR BENEFITS ARE PAID BY THE LICENSEE OR REGISTRANT FOR
9 WHICH THE SECONDARY MORTGAGE LOAN OFFICER ORIGINATED THAT SECONDARY
10 MORTGAGE LOAN.

11 (4) BEGINNING APRIL 1, 2009, A BROKER, LENDER, OR SERVICER
12 SHALL NOT DIRECTLY OR INDIRECTLY PAY ANY COMPENSATION, COMMISSION,
13 FEE, POINTS, OR OTHER REMUNERATION OR BENEFITS TO ANY OF THE
14 FOLLOWING:

15 (A) A SECONDARY MORTGAGE LOAN OFFICER WHO IS NOT A SECONDARY
16 MORTGAGE LOAN OFFICER REGISTRANT.

17 (B) A SECONDARY MORTGAGE LOAN OFFICER REGISTRANT WHO IS NOT AN
18 EMPLOYEE OR AGENT OF THAT BROKER, LENDER, OR SERVICER. AS USED IN
19 THIS SUBDIVISION, "EMPLOYEE" MEANS THAT TERM AS DEFINED IN SECTION
20 3401 OF THE INTERNAL REVENUE CODE, 26 USC 3401.

21 SEC. 2C. (1) A SECONDARY MORTGAGE LOAN OFFICER REGISTRATION IS
22 VALID FOR 1 CALENDAR YEAR AND TERMINATES ON DECEMBER 31 UNLESS IT
23 IS RENEWED ON OR BEFORE THAT DATE.

24 (2) SUBJECT TO SUBSECTION (6), TO RENEW THE SECONDARY MORTGAGE
25 LOAN OFFICER REGISTRATIONS OF ANY EMPLOYEES OR AGENTS OF A LICENSEE
26 OR REGISTRANT, THE LICENSEE OR REGISTRANT SHALL SUBMIT AN
27 APPLICATION FOR RENEWAL BEFORE DECEMBER 1 OF THE YEAR OF THE

1 CURRENT SECONDARY MORTGAGE LOAN OFFICER REGISTRATIONS. THE LICENSEE
2 OR REGISTRANT SHALL INCLUDE WITH THE APPLICATION THE ANNUAL
3 OPERATING FEE ESTABLISHED IN SECTION 6A(6) FOR EACH SECONDARY
4 MORTGAGE LOAN OFFICER REGISTRANT INCLUDED IN THE APPLICATION.

5 (3) THE COMMISSIONER SHALL PRESCRIBE THE FORM OF THE
6 APPLICATION FOR RENEWAL OF SECONDARY MORTGAGE LOAN OFFICER
7 REGISTRATIONS UNDER SUBSECTION (2) AND THE PROCESS FOR SUBMITTING
8 AN APPLICATION FOR RENEWAL. THE APPLICATION FORM SHALL REQUIRE THAT
9 AN APPLICANT PROVIDE AT LEAST ALL OF THE FOLLOWING INFORMATION
10 ABOUT EACH SECONDARY MORTGAGE LOAN OFFICER REGISTRANT INCLUDED IN
11 THE APPLICATION FOR RENEWAL:

12 (A) THE NAME, ADDRESS, AND CURRENT LICENSE OR REGISTRATION
13 NUMBER OF THE APPLICANT.

14 (B) THE NAME AND HOME ADDRESS OF THE SECONDARY MORTGAGE LOAN
15 OFFICER REGISTRANT.

16 (C) THE CURRENT REGISTRATION NUMBER OF THE SECONDARY MORTGAGE
17 LOAN OFFICER REGISTRANT.

18 (D) A STATEMENT AS TO WHETHER THE SECONDARY MORTGAGE LOAN
19 OFFICER REGISTRANT HAS HAD AN APPLICATION DENIED, OR A LICENSE,
20 REGISTRATION, OR SIMILAR AUTHORITY REVOKED OR SUSPENDED, TO
21 PRACTICE ANY PROFESSION OR OCCUPATION IN ANY JURISDICTION,
22 INCLUDING, BUT NOT LIMITED TO, LICENSURE OR REGISTRATION AS A
23 BROKER, LENDER, OR SERVICER IN WHICH THE SECONDARY MORTGAGE LOAN
24 OFFICER REGISTRANT HELD MORE THAN 25% OF THE OWNERSHIP INTEREST OR
25 AS A SECONDARY MORTGAGE LOAN OFFICER.

26 (E) EXCEPT AS PROVIDED IN SUBSECTION (7), PROOF ACCEPTABLE TO
27 THE COMMISSIONER THAT THE SECONDARY MORTGAGE LOAN OFFICER

1 REGISTRANT HAS IN THE IMMEDIATELY PRECEDING CALENDAR YEAR COMPLETED
2 AT LEAST 6 HOURS OF INSTRUCTION IN A COURSE OR COURSES RELEVANT TO
3 THE RESIDENTIAL MORTGAGE LENDING INDUSTRY, THE CONTENT OF WHICH HAS
4 BEEN APPROVED BY THE COMMISSIONER. THE 6 HOURS OF INSTRUCTION SHALL
5 INCLUDE AT LEAST 1.5 HOURS RELATED TO LEGAL AND REGULATORY
6 COMPLIANCE AND AT LEAST 1 HOUR RELATED TO ETHICS AND FRAUD
7 PREVENTION. ALL OF THE FOLLOWING APPLY TO THE COURSE OR COURSES
8 DESCRIBED IN THIS SUBDIVISION:

9 (i) A COURSE MAY UTILIZE A LIVE INSTRUCTOR OR BE CONDUCTED BY
10 ELECTRONIC MEANS, INCLUDING, BUT NOT LIMITED TO, THE INTERNET,
11 DIGITAL BROADCAST, OR SATELLITE NETWORK. HOWEVER, A COURSE
12 CONDUCTED BY ELECTRONIC MEANS MUST INCLUDE A METHOD OF CONFIRMING A
13 SECONDARY MORTGAGE LOAN OFFICER REGISTRANT'S COMPLETION OF THE
14 COURSE.

15 (ii) THE COURSE MUST BE PROVIDED BY A PERSON APPROVED BY THE
16 COMMISSIONER.

17 (F) ANY OTHER INFORMATION REQUIRED BY THE COMMISSIONER.

18 (4) BEFORE A LICENSEE OR REGISTRANT SUBMITS AN APPLICATION FOR
19 RENEWAL OF A SECONDARY MORTGAGE LOAN OFFICER REGISTRATION FOR A
20 SECONDARY MORTGAGE LOAN OFFICER REGISTRANT UNDER SUBSECTION (2),
21 THE SECONDARY MORTGAGE LOAN OFFICER REGISTRANT SHALL PROVIDE AN
22 AFFIDAVIT TO THE LICENSEE OR REGISTRANT THAT DISCLOSES ANY CRIMINAL
23 CONVICTION OF OR PLEA OF NO CONTEST BY THE SECONDARY MORTGAGE LOAN
24 OFFICER REGISTRANT OCCURRING BETWEEN 1 OF THE FOLLOWING, AS
25 APPLICABLE, AND THE DATE OF THE AFFIDAVIT:

26 (A) IF THE RENEWAL APPLICATION IS FOR THE SECONDARY MORTGAGE
27 LOAN OFFICER REGISTRANT'S FIRST RENEWAL OF HIS OR HER SECONDARY

1 MORTGAGE LOAN OFFICER REGISTRATION, THE DATE OF THE BACKGROUND
2 RECORDS CHECK PROVIDED AT THE TIME OF HIS OR HER INITIAL
3 REGISTRATION.

4 (B) IF THE RENEWAL APPLICATION IS FOR THE SECONDARY MORTGAGE
5 LOAN OFFICER REGISTRANT'S SECOND OR SUBSEQUENT RENEWAL OF HIS OR
6 HER SECONDARY MORTGAGE LOAN OFFICER REGISTRATION, THE DATE OF THE
7 MOST RECENT AFFIDAVIT PROVIDED BY THE SECONDARY MORTGAGE LOAN
8 OFFICER REGISTRANT TO THE LICENSEE OR REGISTRANT UNDER THIS
9 SUBSECTION.

10 (5) THE COMMISSIONER SHALL NOT RENEW THE SECONDARY MORTGAGE
11 LOAN OFFICER REGISTRATION OF ANY SECONDARY MORTGAGE LOAN OFFICER
12 WHO HAS EVER BEEN CONVICTED OF, OR PLED NO CONTEST TO, ANY OF THE
13 FOLLOWING:

14 (A) A FELONY OR MISDEMEANOR INVOLVING EMBEZZLEMENT, FORGERY,
15 FRAUD, A FINANCIAL TRANSACTION, OR SECURITIES.

16 (B) WITHIN THE 10-YEAR PERIOD PRECEDING THE DATE OF THE
17 APPLICATION FOR RENEWAL, A FELONY OTHER THAN A FELONY DESCRIBED IN
18 SUBDIVISION (A).

19 (6) IF AN INDIVIDUAL INCLUDED IN AN APPLICATION FOR RENEWAL
20 UNDER SUBSECTION (2) IS NOT CURRENTLY REGISTERED AND HIS OR HER
21 SECONDARY MORTGAGE LOAN OFFICER REGISTRATION HAS NOT BEEN RENEWED
22 FOR A PERIOD OF MORE THAN 5 CONSECUTIVE CALENDAR YEARS, THE
23 INDIVIDUAL MUST APPLY FOR A SECONDARY MORTGAGE LOAN OFFICER
24 REGISTRATION UNDER SECTION 2B AS A NEW APPLICANT. THE APPLICANT MAY
25 INCLUDE IN A RENEWAL APPLICATION UNDER SUBSECTION (2) A REQUEST TO
26 RENEW THE SECONDARY MORTGAGE LOAN OFFICER REGISTRATION FOR A
27 SECONDARY MORTGAGE LOAN OFFICER REGISTRANT WHO IS NOT CURRENTLY

1 REGISTERED IF HIS OR HER SECONDARY MORTGAGE LOAN OFFICER
2 REGISTRATION HAS NOT BEEN RENEWED FOR A PERIOD OF FEWER THAN 5
3 CONSECUTIVE YEARS.

4 (7) AN APPLICANT UNDER SUBSECTION (2) FOR RENEWAL OF THE
5 SECONDARY MORTGAGE LOAN OFFICER REGISTRATION OF A SECONDARY
6 MORTGAGE LOAN OFFICER REGISTRANT WHO HAS A VALID, SIMILAR LICENSE
7 OR REGISTRATION FROM ANOTHER STATE THAT HAS INSTRUCTIONAL
8 PROCEDURES AND REQUIREMENTS FOR SECONDARY MORTGAGE LOAN OFFICERS
9 APPROVED BY THE COMMISSIONER MAY SATISFY SUBSECTION (3) (E) BY
10 SUBMITTING PROOF THAT HE OR SHE IS IN COMPLIANCE WITH THE
11 INSTRUCTIONAL REQUIREMENTS OF THAT STATE AT THE TIME OF
12 APPLICATION.

13 SEC. 2D. (1) A SECONDARY MORTGAGE LOAN OFFICER REGISTRANT
14 SHALL PROVIDE WRITTEN NOTICE TO THE COMMISSIONER WITHIN 10 DAYS
15 AFTER ANY OF THE FOLLOWING OCCUR:

16 (A) HIS OR HER EMPLOYMENT OR AGENCY RELATIONSHIP WITH A
17 LICENSEE OR REGISTRANT IS TERMINATED.

18 (B) HE OR SHE BEGINS EMPLOYMENT OR AN AGENCY RELATIONSHIP WITH
19 A LICENSEE OR REGISTRANT.

20 (C) THERE IS A CHANGE IN THE HOME ADDRESS OR ANY PERSONAL
21 TELEPHONE NUMBER OR PERSONAL ELECTRONIC MAIL ADDRESS HE OR SHE
22 PREVIOUSLY PROVIDED TO THE COMMISSIONER.

23 (D) HE OR SHE IS CONVICTED OF OR PLEADS GUILTY OR NO CONTEST
24 TO ANY OF THE FOLLOWING:

25 (i) A MISDEMEANOR INVOLVING EMBEZZLEMENT, FORGERY, FRAUD, A
26 FINANCIAL TRANSACTION, OR SECURITIES.

27 (ii) A FELONY.

1 (2) A LICENSEE OR REGISTRANT SHALL PROVIDE WRITTEN NOTICE TO
2 THE COMMISSIONER WITHIN 20 DAYS AFTER HIRING OR ENGAGING AN
3 INDIVIDUAL AS A SECONDARY MORTGAGE LOAN OFFICER OR TERMINATING THE
4 EMPLOYMENT OF OR AGENCY RELATIONSHIP WITH A SECONDARY MORTGAGE LOAN
5 OFFICER.

6 Sec. 6. (1) Except as otherwise provided in this section, at
7 the time of filing an application for a license or registration or
8 renewal of a license or registration, an applicant shall do all of
9 the following:

10 (a) Provide proof of financial responsibility in the following
11 amounts:

12 (i) \$25,000.00 for a license or registration to act as a broker
13 who receives funds from a prospective borrower before the closing
14 of the secondary mortgage loan or who acts as a lender. ~~An~~
15 ~~additional \$20,000.00 is required for each exclusive broker through~~
16 ~~which the applicant conducts business regulated by this act. In no~~
17 ~~event shall the additional amount required by this subsection be in~~
18 ~~excess of \$1,000,000.00.~~

19 (ii) \$125,000.00 for a license or registration to act as a
20 servicer. ~~An additional \$20,000.00 is required for each exclusive~~
21 ~~broker through which the applicant conducts business regulated by~~
22 ~~this act. In no event shall the additional amount required by this~~
23 ~~subsection be in excess of \$1,000,000.00.~~

24 (iii) AN ADDITIONAL \$20,000.00 IS REQUIRED FROM AN APPLICANT
25 DESCRIBED IN SUBPARAGRAPH (i) OR (ii) FOR EACH EXCLUSIVE BROKER
26 THROUGH WHICH THAT APPLICANT CONDUCTS BUSINESS REGULATED UNDER THIS
27 ACT. HOWEVER, THE AGGREGATE OF THE ADDITIONAL AMOUNTS REQUIRED FROM

1 AN APPLICANT UNDER THIS SUBDIVISION SHALL NOT EXCEED \$1,000,000.00.
2 THIS SUBPARAGRAPH DOES NOT APPLY AFTER MARCH 31, 2009.

3 (b) Provide proof of financial responsibility by 1 of the
4 following:

5 (i) A corporate surety bond payable to the commissioner ~~which~~
6 **THAT** expires no earlier than the date the license or registration
7 expires, executed by a corporate surety approved by the
8 commissioner.

9 (ii) An irrevocable letter of credit upon which the applicant
10 for a license or registration is the obligor, ~~which~~ **THAT** expires
11 no earlier than the date the license or registration expires, **THAT**
12 **IS** issued by a depository financial institution, ~~with terms~~ **AND THE**
13 **TERMS OF WHICH ARE** approved by the commissioner.

14 (2) A licensee or registrant that conducts business regulated
15 by this act through 1 or more exclusive brokers shall enter into an
16 indemnification agreement, subject to the approval of the
17 commissioner, to protect borrowers from monetary damages that may
18 result from doing business with the exclusive brokers through which
19 the licensee or registrant conducts business regulated by this act.
20 The indemnification shall be provided in the amount and form
21 required ~~by~~ **UNDER** subsection (1). **THIS SUBSECTION DOES NOT APPLY**
22 **AFTER MARCH 31, 2009.**

23 (3) The bond or letter of credit required under subsection (1)
24 shall be conditioned upon the licensee or registrant conducting its
25 business as required ~~by~~ **UNDER** this act and all the rules
26 promulgated under this act, and the payment of all money that
27 becomes due to borrowers, secondary mortgage loan applicants, and

1 the commissioner.

2 (4) The commissioner shall prioritize and pay claims against a
3 proof of financial responsibility filed with the commissioner under
4 this section in a manner that, in his or her discretion, best
5 protects the public interest.

6 (5) Claims may only be filed against a licensee's or
7 ~~registrant's~~ proof of financial responsibility **FILED WITH THE**
8 **COMMISSIONER UNDER THIS SECTION** by the commissioner and the
9 licensee's or registrant's borrowers, secondary mortgage loan
10 applicants, and loan servicing customers.

11 (6) Claims filed against a proof of financial responsibility
12 **FILED WITH THE COMMISSIONER UNDER THIS SECTION** by a borrower or
13 loan applicant shall involve only secondary mortgage loans or
14 secondary mortgage loan applications secured or to be secured by
15 real property used as a dwelling located in this state. The amount
16 of the claim shall not exceed actual fees in connection with a loan
17 application, overcharges of principal and interest, and excess
18 escrow collections by the licensee or registrant.

19 (7) The commissioner may file a claim against a proof of
20 financial responsibility **FILED WITH THE COMMISSIONER UNDER THIS**
21 **SECTION** for payment of fines or fees due and payable to the
22 commissioner and reimbursement of expenses incurred in
23 investigating the licensee or registrant and expenses incurred in
24 distributing proceeds of the proof of financial responsibility. A
25 claim filed under this subsection shall be paid in full prior to
26 payment of other claims against a proof of financial
27 responsibility, unless the commissioner, in his or her discretion,

1 waives in whole or in part the right to priority of payment.

2 (8) In the event that valid claims exceed the amount of ~~the~~**A**
3 proof of financial responsibility **FILED WITH THE COMMISSIONER UNDER**
4 **THIS SECTION**, each claimant shall be entitled only to a pro rata
5 amount of his or her valid claim.

6 (9) A licensee that acts as a broker and that receives funds
7 from a prospective borrower before the closing of the secondary
8 mortgage loan shall maintain a net worth of not less than
9 \$25,000.00. A licensee that acts as a lender shall maintain a net
10 worth of not less than \$25,000.00. A licensee that acts as a
11 servicer shall maintain a net worth of not less than \$100,000.00.

12 (10) Net worth under subsection (9) ~~shall be~~**IS** determined at
13 the conclusion of the fiscal year of the licensee immediately
14 preceding the date an application for a license, or renewal of a
15 license, is submitted to the commissioner. ~~Net worth shall be~~
16 ~~disclosed~~**AN APPLICANT SHALL DISCLOSE ITS NET WORTH** on a form
17 prescribed by the commissioner or on a form prepared or reviewed by
18 a certified public accountant and ~~shall be computed~~ in accordance
19 with generally accepted accounting principles. The following assets
20 ~~shall be~~**ARE** excluded in the computation of net worth:

21 (a) That portion of an applicant's assets pledged to secure
22 obligations of any person other than ~~that of~~ the applicant.

23 (b) An asset, except **A** construction loans receivable, secured
24 by mortgages from related companies, due from officers or
25 stockholders of the applicant or persons in which the applicant's
26 officers or stockholders have an interest.

27 (c) An amount in excess of the lower of the cost or market

1 value of mortgage loans in foreclosure, or real property acquired
2 through foreclosure.

3 (d) An investment shown on the balance sheet in joint
4 ventures, subsidiaries, or affiliates ~~which~~ **THAT** is greater than
5 the market value of the assets.

6 (e) Good will or value placed on insurance renewals or
7 property management contract renewals or other similar intangible
8 value.

9 (f) Organization costs.

10 Sec. 6a. (1) A registration or license, unless it is renewed,
11 ~~shall expire~~ **EXPIRES** on December 31 of each year. A **PERSON MAY**
12 **RENEW A** registration or license ~~may be renewed by~~ filing an
13 application for license or registration renewal and paying the
14 annual operating fee for the succeeding year. The application and
15 payment shall be received by the commissioner on ~~or before~~ ~~December 15 of each year~~ **A DATE PRESCRIBED BY THE COMMISSIONER.**

17 (2) Not later than 90 days after close of the fiscal year of a
18 licensee or registrant, the licensee or registrant shall annually
19 deliver to the commissioner a financial statement for the fiscal
20 year prepared from the licensee's or registrant's books and
21 records. At the licensee's or registrant's option, the financial
22 statement may be any of the following:

23 (a) On a form prescribed by the commissioner.

24 (b) A report substantially similar to the form prescribed by
25 the commissioner, which the licensee or registrant represents to
26 the commissioner to be true and complete.

27 (c) In a format prepared and certified by an independent

1 certified public accountant licensed by a regulatory authority of
2 any state or political subdivision of the United States.

3 (3) A registrant that is a licensee or registrant under the
4 mortgage brokers, lenders, and servicers licensing act, 1987 PA
5 173, MCL 445.1651 to 445.1684, and that timely files with the
6 commissioner the financial statement required under section 7 of
7 the mortgage brokers, lenders, and servicers licensing act, 1987 PA
8 173, MCL 445.1657, is exempt from the filing requirement of
9 subsection (2).

10 (4) At the time of making an initial application for a license
11 under this act, and at the time of making the first application for
12 a license after the suspension or revocation of a license, ~~the~~**AN**
13 applicant for a license shall pay to the commissioner a fee for
14 investigating the applicant for a license and the annual operating
15 fee established by the commissioner under subsection (5). To renew
16 a license or registration that has not been suspended or revoked,
17 the applicant shall only pay to the commissioner the annual
18 operating fee.

19 (5) If ~~the~~**AN** initial license or registration ~~would~~**DESCRIBED**
20 **IN SUBSECTION (4) WILL** have an effective date of July 1 or later,
21 the initial annual operating fee for that license ~~shall be~~**IS** 1/2
22 of the annual operating fee.

23 (6) The commissioner shall annually establish a schedule of
24 fees **THAT ARE** sufficient to pay, but not to exceed, the ~~financial~~
25 ~~institutions bureau's~~ reasonably anticipated costs of **THE OFFICE OF**
26 **FINANCIAL AND INSURANCE REGULATION FOR** administering **AND ENFORCING**
27 this act. The fee schedule ~~is as follows~~**SHALL INCLUDE ALL OF THE**

1 FOLLOWING:

2 (a) For the investigation of an applicant for a license, **A FEE**
3 **OF** not less than \$400.00 or more than \$1,000.00.

4 (b) ~~An~~ **SUBJECT TO SUBSECTION (5), AN** annual operating fee **FOR**
5 **EACH LICENSEE OR REGISTRANT**, based upon the number of secondary
6 mortgage loans the licensee or registrant brokered to other parties
7 that were closed during the previous calendar year, the number of
8 secondary mortgage loans closed by the licensee or registrant
9 during the previous calendar year, and the dollar volume of
10 secondary mortgage loans serviced by the licensee or registrant as
11 of December 31 of the previous calendar year. The annual operating
12 fee set by the commissioner under this subsection shall be based
13 upon information in reports filed under subsection (13).

14 (c) For amending or reissuing a license, ~~or~~ registration, **OR**
15 **SECONDARY MORTGAGE LOAN OFFICER REGISTRATION, A FEE OF** not less
16 than ~~\$50.00~~ **\$15.00** or more than \$200.00.

17 (d) A licensee or registrant shall pay the actual travel,
18 lodging, and meal expenses incurred by employees of the ~~financial~~
19 ~~institutions bureau~~ **OFFICE OF FINANCIAL AND INSURANCE REGULATION**
20 who travel out of state to examine or investigate the records of
21 the licensee or registrant and the cost of independent
22 investigators employed under section 6b(3)(e).

23 **(E) AN ANNUAL FEE FROM OR ON BEHALF OF EACH SECONDARY MORTGAGE**
24 **LOAN OFFICER REGISTRANT IN AN AMOUNT ESTABLISHED BY THE**
25 **COMMISSIONER. FOR PURPOSES OF THIS SUBDIVISION, THE COMMISSIONER**
26 **SHALL ESTABLISH AN AMOUNT FOR THE ANNUAL FEE THAT IS SUFFICIENT TO**
27 **DEFRAY THE ESTIMATED COST OF ADMINISTERING AND ENFORCING THE**

1 SECONDARY MORTGAGE LOAN OFFICER REGISTRATION PROVISIONS OF THIS
2 ACT. THIS SUBDIVISION DOES NOT APPLY TO A SECONDARY MORTGAGE LOAN
3 OFFICER REGISTRANT DESCRIBED IN SECTION 2A(9).

4 (7) Fees received under this act are not refundable.

5 (8) If any fees or penalties provided for in this act are not
6 paid when required, the attorney general may maintain an action
7 against the delinquent licensee or registrant for the recovery of
8 the fees and penalties together with interest and costs.

9 (9) A licensee or registrant that fails to submit to the
10 commissioner the reports as required by subsections (2) and (13) is
11 subject to a penalty of \$25.00 for each day a required report is
12 delinquent or \$1,000.00, whichever is less.

13 (10) A license or registration renewal fee that is not
14 received on or before December 31 is subject to a penalty of \$25.00
15 for each day the fee is delinquent or \$1,000.00, whichever is less.

16 (11) Money received ~~under this act~~ **FROM THE FEES DESCRIBED IN**
17 **THIS SECTION** shall be deposited in the ~~state treasury and credited~~
18 ~~to the financial institutions bureau to be used only for the~~
19 ~~operation of the financial institutions bureau~~ **MBLSLA FUND. AS USED**
20 **IN THIS SUBSECTION, "MBLSLA FUND" MEANS THE RESTRICTED ACCOUNT**
21 **CREATED UNDER SECTION 8(8) OF THE MORTGAGE BROKERS, LENDERS, AND**
22 **SERVICES LICENSING ACT, 1987 PA 173, MCL 445.1658.**

23 (12) The annual operating fees set by the commissioner shall
24 not exceed the levels needed to cover the estimated cost of
25 enforcement of this act.

26 (13) On or before a date to be determined by the commissioner,
27 a licensee or registrant shall annually file with the commissioner

1 a report giving information, as required by the commissioner,
2 concerning the business and operations of the licensee or
3 registrant under this act during the immediately preceding calendar
4 year. In addition, the commissioner may require a licensee or
5 registrant to file special reports as the commissioner considers
6 reasonably necessary for the proper supervision of licensees or
7 registrants under this act. Reports required under this section
8 shall be in the form prescribed by the commissioner, signed, and
9 affirmed. A person who willfully and knowingly subscribes and
10 affirms a false statement in a report required under this
11 subsection is guilty of a felony, punishable by imprisonment for
12 not more than 15 years.

13 Sec. 6b. (1) The commissioner shall exercise general
14 supervision and control over brokers, lenders, and servicers doing
15 business in this state **AND SECONDARY MORTGAGE LOAN OFFICERS**
16 **ORIGINATING SECONDARY MORTGAGE LOANS IN THIS STATE.**

17 (2) In addition to the other powers granted by this act, the
18 commissioner may do any of the following:

19 (a) Deny an application for a license, ~~or~~ registration, **OR**
20 **SECONDARY MORTGAGE LOAN OFFICER REGISTRATION.**

21 (b) Conduct examinations and investigations of any person, as
22 necessary to enforce this act and the rules promulgated under this
23 act.

24 (c) Investigate complaints filed against licensees or
25 registrants.

26 (d) Advise the attorney general or the prosecuting attorney of
27 ~~the county in which the business is conducted~~ **A COUNTY IN WHICH A**

1 **BROKER, LENDER, OR SERVICER IS CONDUCTING BUSINESS OR IN WHICH A**
 2 **SECONDARY MORTGAGE LOAN OFFICER RESIDES** that the commissioner
 3 believes a licensee, registrant, **SECONDARY MORTGAGE LOAN OFFICER**
 4 **REGISTRANT, or OTHER** person is violating this act. The attorney
 5 general or prosecuting attorney shall bring a legal action to
 6 enjoin the operation of the business **OF THE BROKER, LENDER, OR**
 7 **SERVICER OR THE ORIGINATING OF SECONDARY MORTGAGES BY THE SECONDARY**
 8 **MORTGAGE LOAN OFFICER** or prosecute violations of this act.

9 (e) Bring an action in the Ingham county circuit court to
 10 enjoin a person from participating in, continuing to practice, or
 11 from engaging in a practice that is an unsafe or injurious practice
 12 or that violates this act or a rule promulgated under this act.

13 (f) Order a person to cease and desist from a violation of
 14 this act or a rule promulgated under this act ~~as provided~~ under
 15 section 14.

16 (g) Suspend, revoke, or refuse to issue a license, ~~or~~
 17 registration, ~~as provided~~ **OR SECONDARY MORTGAGE LOAN OFFICER**
 18 **REGISTRATION** under section 11.

19 (h) Assess a civil fine ~~as provided~~ under section 27.

20 (i) Appoint a conservator ~~as provided~~ under section 12a.

21 (j) Issue an order to prohibit a person from being employed
 22 by, an agent of, or control person of, a licensee or registrant ~~as~~
 23 ~~provided~~ under section 14a.

24 (k) Censure a licensee, ~~or~~ registrant, **OR SECONDARY MORTGAGE**
 25 **LOAN OFFICER REGISTRANT.**

26 (3) In the conduct of any examination or investigation under
 27 this act, the commissioner may do any of the following:

1 (a) Issue a subpoena ~~as provided~~ under section 15.

2 (b) Administer oaths ~~as provided~~ under section 15.

3 (c) Interrogate a person under oath concerning the business
4 and conduct of affairs of a person subject to this act, and require
5 the production of books, records, or papers relative to the
6 inquiry.

7 (d) Have free access during regular business hours to the
8 offices, places of business, or other location where the licensee,
9 registrant, or an affiliate of a licensee or registrant, maintains
10 business-related documents, and to the books, accounts, papers,
11 records, files, documents, safes, and vaults of a licensee or
12 registrant. The information obtained during the examination or
13 investigation is exempt from the freedom of information act, 1976
14 PA 442, MCL 15.231 to 15.246, and shall not be available for public
15 inspection or copying or divulged to any person except as follows:

16 (i) To the attorney general.

17 (ii) To a regulatory agency.

18 (iii) In connection with an enforcement action brought under
19 this or another applicable act.

20 (iv) To law enforcement officials.

21 (v) To persons authorized by the Ingham county circuit court
22 to receive the information.

23 (e) Employ independent investigators to conduct a part or all
24 of ~~the~~ ~~AN~~ investigation, in the case of an investigation other than
25 an examination.

26 Sec. 11. (1) A notice shall be given to a licensee,
27 registrant, **SECONDARY MORTGAGE LOAN OFFICER REGISTRANT**, or

1 applicant of the commissioner's intention to enter an order to
 2 suspend or revoke a license, ~~or~~ registration, **OR SECONDARY MORTGAGE**
 3 **LOAN OFFICER REGISTRATION** or to refuse to issue a license, ~~or~~
 4 registration, **OR SECONDARY MORTGAGE LOAN OFFICER REGISTRATION**. The
 5 notice shall be in writing ~~and~~ served personally ~~or~~ sent by
 6 certified mail to the licensee, registrant, **SECONDARY MORTGAGE LOAN**
 7 **OFFICER REGISTRANT**, or applicant.

8 (2) ~~The~~ **A** licensee, registrant, **SECONDARY MORTGAGE LOAN**
 9 **OFFICER REGISTRANT**, or applicant may request a hearing to contest
 10 the intention to enter an order or refusal **UNDER SUBSECTION (1)**
 11 within 20 days after service of the notice. If a hearing regarding
 12 suspension, revocation, or refusal to issue a license, ~~or~~
 13 registration, **OR SECONDARY MORTGAGE LOAN OFFICER REGISTRATION** is
 14 not requested, the commissioner shall enter a final order regarding
 15 the suspension, revocation, or refusal to issue a license, ~~or~~
 16 registration, **OR SECONDARY MORTGAGE LOAN OFFICER REGISTRATION**. The
 17 hearing shall be conducted in accordance with the provisions of the
 18 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
 19 24.328. The commissioner may suspend, revoke, or refuse to issue or
 20 renew a license, ~~or~~ registration, **OR SECONDARY MORTGAGE LOAN**
 21 **OFFICER REGISTRATION** if he or she finds that the licensee, ~~or~~
 22 registrant, **OR SECONDARY MORTGAGE LOAN OFFICER REGISTRANT** or an
 23 owner, director, officer, member, partner, stockholder, employee,
 24 or agent of ~~the~~ **A** licensee, ~~or~~ registrant, **OR SECONDARY MORTGAGE**
 25 **LOAN OFFICER REGISTRANT** has done any of the following:

- 26 (a) Made a material misstatement in ~~the~~ **AN** application.
 27 (b) Engaged in fraud, deceit, or material misrepresentation in

1 connection with any transaction subject to this act.

2 (c) Failed after 10 days' written notice of default, to pay
3 ~~the~~**AN** annual operating fee, to maintain in effect ~~the~~**A** bond as
4 required by the commissioner, or to comply with a demand, ruling,
5 or requirement of the commissioner lawfully made under this act.

6 (d) Either knowingly or without the exercise of due care to
7 prevent it, violated this act or a rule promulgated under this act.

8 (3) The commissioner may suspend, revoke, or refuse to renew a
9 license, ~~ex~~**REGISTRATION, OR SECONDARY MORTGAGE LOAN OFFICER**
10 **REGISTRATION** upon a finding of a fact or condition which, if the
11 fact or condition had existed at the time of the original
12 application for the license, ~~ex~~**REGISTRATION, OR SECONDARY MORTGAGE**
13 **LOAN OFFICER REGISTRATION**, clearly would have warranted the
14 commissioner to refuse to issue the license, ~~ex~~**REGISTRATION, OR**
15 **SECONDARY MORTGAGE LOAN OFFICER REGISTRATION** originally.

16 (4) A licensee, ~~ex~~**REGISTRANT, OR SECONDARY MORTGAGE LOAN**
17 **OFFICER REGISTRANT** may surrender a license, ~~ex~~**REGISTRATION, OR**
18 **SECONDARY MORTGAGE LOAN OFFICER REGISTRATION** by delivering to the
19 commissioner the license, ~~ex~~**REGISTRATION, certificate****OR SECONDARY**
20 **MORTGAGE LOAN OFFICER REGISTRATION** with written notice that the
21 licensee, ~~ex~~**REGISTRANT, OR SECONDARY MORTGAGE LOAN OFFICER**
22 **REGISTRANT** surrenders the license, ~~ex~~**REGISTRATION, OR SECONDARY**
23 **MORTGAGE LOAN OFFICER REGISTRATION**. The surrender, suspension, or
24 revocation of a license, ~~ex~~**REGISTRATION, OR SECONDARY MORTGAGE**
25 **LOAN OFFICER REGISTRATION** under this act shall not affect the
26 licensee's, ~~ex~~**REGISTRANT'S, OR SECONDARY MORTGAGE LOAN OFFICER**
27 **REGISTRANT'S** civil or criminal liability for acts committed in

1 violation of this act. The surrender of a license, ~~or~~ registration,
2 **OR SECONDARY MORTGAGE LOAN OFFICER REGISTRATION** does not affect a
3 proceeding to suspend or revoke a license, ~~or~~ registration, **OR**
4 **SECONDARY MORTGAGE LOAN OFFICER REGISTRATION**.

5 (5) Except as otherwise provided by law, a surrender,
6 suspension, or revocation of a license, ~~or~~ registration, ~~shall~~ **OR**
7 **SECONDARY MORTGAGE LOAN OFFICER REGISTRATION DOES** not impair or
8 affect the obligation of a preexisting contract between the
9 licensee, ~~or~~ registrant, **OR SECONDARY MORTGAGE LOAN OFFICER**
10 **REGISTRANT** and another person.

11 (6) A licensee, ~~or~~ registrant, **OR SECONDARY MORTGAGE LOAN**
12 **OFFICER REGISTRANT** whose license, ~~or~~ registration, **OR SECONDARY**
13 **MORTGAGE LOAN OFFICER REGISTRATION** certificate has been destroyed
14 or lost may comply with this section by submitting to the
15 commissioner a notarized affidavit of the loss accompanied by
16 written notice that the licensee, ~~or~~ registrant, **OR SECONDARY**
17 **MORTGAGE LOAN OFFICER REGISTRANT** surrenders the license, ~~or~~
18 registration, **OR SECONDARY MORTGAGE LOAN OFFICER REGISTRATION**.

19 Sec. 13. (1) A license, ~~or~~ registration, **OR SECONDARY MORTGAGE**
20 **LOAN OFFICER REGISTRATION** remains in force until the date of
21 expiration or until surrendered, revoked, or suspended under this
22 act. The commissioner may reinstate a suspended license, ~~or~~
23 registration, **OR SECONDARY MORTGAGE LOAN OFFICER REGISTRATION** or
24 issue a new license, ~~or~~ registration, **OR SECONDARY MORTGAGE LOAN**
25 **OFFICER REGISTRATION** to a licensee, ~~or~~ registrant, **OR SECONDARY**
26 **MORTGAGE LOAN OFFICER REGISTRANT** whose license, ~~or~~ registration, **OR**
27 **SECONDARY MORTGAGE LOAN OFFICER REGISTRATION** has been revoked if

1 the conditions under which the license, ~~or registrant~~ **REGISTRATION,**
 2 **OR SECONDARY MORTGAGE LOAN OFFICER REGISTRATION** was revoked have
 3 been corrected and the commissioner is satisfied, as the result of
 4 an investigation, that the conditions are not likely to recur.

5 (2) A **PERSON SHALL NOT TRANSFER OR ASSIGN A** license or
 6 registration ~~shall not be transferred or assigned~~ without the
 7 consent of the commissioner.

8 ~~——(3) The sale, transfer, assignment, or conveyance of more than~~
 9 25% of the outstanding voting stock of a licensee or registrant
 10 ~~which~~ **THAT** is a corporation, or more than 25% of the interest in a
 11 licensee or registrant ~~which~~ **THAT** is a **LIMITED LIABILITY COMPANY OR**
 12 partnership or other unincorporated legal entity, ~~shall be~~ **IS**
 13 considered ~~to be a~~ transfer of ~~the~~ **A** license or registration **FOR**
 14 **PURPOSES OF THIS SUBSECTION.**

15 Sec. 20. A licensee, ~~or registrant,~~ **OR SECONDARY MORTGAGE LOAN**
 16 **OFFICER REGISTRANT** shall not make or offer to make a secondary
 17 mortgage loan except on the terms and conditions authorized by this
 18 act and the rules promulgated under this act.

19 Sec. 22. (1) ~~Other~~ **A LICENSEE OR REGISTRANT SHALL NOT DIRECTLY**
 20 **OR INDIRECTLY ASSESS ANY** charges and ~~OR~~ fees ~~shall not be made,~~
 21 ~~directly or indirectly,~~ in connection with ~~the making of a~~
 22 secondary mortgage loan, except for any of the following, which may
 23 be included in the principal of the loan:

24 (a) Charges for credit life insurance or credit accident and
 25 health insurance as defined in **SECTION 3 OF** the credit insurance
 26 act, 1958 PA 173, MCL ~~550.601 to 550.624~~ **550.603**, or any other
 27 insurance under the insurance code of 1956, 1956 PA 218, MCL

1 500.100 to 500.8302, that is offered by the licensee or registrant
2 and that ~~may be purchased at the option of the borrower~~ **HAS THE**
3 **OPTION TO PURCHASE.**

4 (b) ~~Reasonable and necessary charges that are~~ **IF REASONABLE**
5 **AND NECESSARY,** the actual expenses incurred ~~by the licensee,~~
6 ~~registrant, or exclusive broker~~ in connection with the making,
7 closing, disbursing, extending, readjusting, or renewing ~~of a~~
8 secondary mortgage loan ~~—BY ANY OF THE FOLLOWING, AS APPLICABLE:~~

9 (i) **THE LICENSEE.**

10 (ii) **THE REGISTRANT.**

11 (iii) **AN EXCLUSIVE BROKER OF THE LICENSEE OR REGISTRANT. THIS**
12 **SUBPARAGRAPH DOES NOT APPLY AFTER MARCH 31, 2009.**

13 (c) A nonrefundable processing fee that is not more than 5% of
14 the gross amount of the loan.

15 (d) Other charges ~~as authorized by~~ **UNDER** the credit reform
16 act, 1995 PA 162, MCL 445.1851 to 445.1864.

17 (e) A reasonable annual fee for the privilege of receiving
18 open-end credit from the licensee or registrant.

19 (2) The charges authorized ~~by~~ **UNDER** this section ~~shall be~~ **ARE**
20 in addition to interest authorized by law and are not a part of the
21 interest collected or agreed to be paid on the secondary mortgage
22 loan within the meaning of the law of this state that limits the
23 rate of interest ~~which~~ **THAT** may be exacted in a transaction. The
24 charges shall be paid only once by the borrower to the licensee or
25 registrant.

26 (3) Any insurance sold by a licensee or registrant ~~shall be in~~
27 ~~accordance~~ **CONNECTION WITH A SECONDARY MORTGAGE LOAN MUST COMPLY**

1 with the insurance code of 1956, 1956 PA 218, MCL 500.100 to
2 500.8302, or the credit insurance act, 1958 PA 173 MCL 500.601 to
3 500.624, **AS APPLICABLE.**

4 (4) If a licensee or registrant requires a borrower to
5 purchase hazard insurance, the licensee or registrant shall not
6 require the borrower to purchase the insurance through a particular
7 agency or agent or from a particular insurer.

8 (5) This section does not prohibit a licensee or registrant
9 from imposing the charges that are permitted by any federal lending
10 program designed to promote the making of secondary mortgage loans.

11 **SEC. 26A. A SECONDARY MORTGAGE LOAN OFFICER REGISTRANT SHALL**
12 **NOT DO ANY OF THE FOLLOWING:**

13 (A) **ENGAGE IN FRAUD, DECEIT, OR MATERIAL MISREPRESENTATION IN**
14 **CONNECTION WITH ANY TRANSACTION GOVERNED BY THIS ACT.**

15 (B) **INTENTIONALLY, OR DUE TO GROSS OR WANTON NEGLIGENCE,**
16 **REPEATEDLY FAIL TO PROVIDE BORROWERS WITH ANY MATERIAL DISCLOSURES**
17 **OF INFORMATION REQUIRED BY LAW.**

18 (C) **DIRECTLY OR INDIRECTLY MAKE A FALSE, MISLEADING, OR**
19 **DECEPTIVE ADVERTISEMENT REGARDING SECONDARY MORTGAGE LOANS OR THE**
20 **AVAILABILITY OF SECONDARY MORTGAGE LOANS.**

21 (D) **SUPPRESS OR WITHHOLD FROM THE COMMISSIONER ANY INFORMATION**
22 **THAT THE SECONDARY MORTGAGE LOAN OFFICER POSSESSES AND THAT, IF**
23 **SUBMITTED, WOULD HAVE MADE THE SECONDARY MORTGAGE LOAN OFFICER**
24 **INELIGIBLE FOR REGISTRATION OR RENEWAL OF HIS OR HER SECONDARY**
25 **MORTGAGE LOAN OFFICER REGISTRATION UNDER THIS ACT AT THE TIME OF**
26 **APPLICATION AND WOULD HAVE ALLOWED THE COMMISSIONER TO REFUSE TO**
27 **REGISTER THE SECONDARY MORTGAGE LOAN OFFICER.**

1 (E) BE CONVICTED OF, OR PLEAD NO CONTEST TO, ANY OF THE
2 FOLLOWING:

3 (i) A MISDEMEANOR INVOLVING EMBEZZLEMENT, FORGERY, FRAUD, A
4 FINANCIAL TRANSACTION, OR SECURITIES.

5 (ii) A FELONY.

6 (F) REFUSE OR FAIL TO FURNISH ANY INFORMATION OR MAKE ANY
7 REPORT REQUIRED BY THE COMMISSIONER TO ISSUE OR RENEW A SECONDARY
8 MORTGAGE LOAN OFFICER REGISTRATION, OR OTHERWISE REQUIRED BY THE
9 COMMISSIONER, WITHIN A REASONABLE PERIOD OF TIME, AS DETERMINED BY
10 THE COMMISSIONER, AFTER REQUESTED BY THE COMMISSIONER.

11 Sec. 27. (1) In addition to the penalties provided by this
12 act, a violation of this act with respect to a particular secondary
13 mortgage loan transaction is also subject to the penalty and remedy
14 provisions of the credit reform act, 1995 PA 162, MCL 445.1851 to
15 445.1864.

16 (2) A person, association, nonprofit corporation, common law
17 trust, joint stock company, limited liability company, or any other
18 group of individuals, however organized, or any owner, partner,
19 member, officer, director, trustee, employee, agent, broker, or
20 representative thereof who or which willfully or intentionally
21 ~~engages in this state in the business of making secondary mortgage~~
22 ~~loans without a license as required under this act, DOES ANY OF THE~~
23 **FOLLOWING** is guilty of a misdemeanor punishable by a fine of not
24 more than ~~\$5,000.00~~ **\$15,000.00**, imprisonment for not more than ~~3~~
25 ~~years~~ **1 YEAR**, or both: -

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

1 ACT.

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

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

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

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

17 (3) A person who violates this act or directly or indirectly
18 counsels, aids, or abets in a violation is liable, in addition to
19 other penalties and forfeitures imposed by this act, for a civil
20 fine of not more than ~~\$1,000.00~~ \$3,000.00 for each offense
21 VIOLATION, EXCEPT THAT A PERSON SHALL NOT BE FINED MORE THAN
22 \$30,000.00 FOR A TRANSACTION RESULTING IN MORE THAN 1 VIOLATION,
23 PLUS THE COSTS OF INVESTIGATION. The civil fine shall be sued for
24 and recovered by the commissioner and shall be collected and
25 enforced by summary proceedings by the attorney general.

26 (4) Whether or not he or she seeks damages or has an adequate
27 remedy at law, a person, a county prosecutor, or the attorney

1 general may bring an action to do any of the following:

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

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

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

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

12 (a) Senate Bill No. 1553.

13 (b) Senate Bill No. 1554.

14 (c) Senate Bill No. 1555.

15 (d) House Bill No. 6562.