

SUBSTITUTE FOR
SENATE BILL NO. 1554

A bill to amend 1987 PA 173, entitled
"Mortgage brokers, lenders, and servicers licensing act,"
by amending section 2a (MCL 445.1652a), as added by 2008 PA 60.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2a. (1) Beginning ~~January~~ **APRIL** 1, 2009, an employee or
2 agent of a licensee or registrant shall not perform services of a
3 loan officer unless he or she registers or otherwise complies with
4 this section.

5 (2) ~~Beginning January 1, 2009, a~~ **A** licensee or registrant that
6 employs or offers to employ, or engages or offers to engage as an
7 agent, an individual **AS A LOAN OFFICER** to originate mortgage loans
8 **AFTER MARCH 31, 2009** shall conduct a criminal ~~records check of that~~
9 ~~individual and submit the results of the criminal records check to~~
10 ~~the commissioner. A criminal records check under this subsection~~

1 ~~shall include a check of the individual's fingerprints, taken by a~~
2 ~~law enforcement agency or other person determined by the~~
3 ~~commissioner to be qualified to take fingerprints.~~ HISTORY CHECK OF
4 THAT INDIVIDUAL. ALL OF THE FOLLOWING APPLY TO THE CRIMINAL HISTORY
5 CHECK OF AN INDIVIDUAL REQUIRED UNDER THIS SUBSECTION:

6 (A) THE DEPARTMENT OF STATE POLICE AND THE FEDERAL BUREAU OF
7 INVESTIGATION SHALL PERFORM THE CRIMINAL HISTORY CHECK REQUIRED
8 UNDER THIS SUBSECTION.

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

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

23 (D) AFTER RECEIVING A PROPER REQUEST AND THE REQUIRED FEES
24 UNDER THIS SUBSECTION, THE DEPARTMENT OF STATE POLICE SHALL CONDUCT
25 THE CRIMINAL HISTORY CHECK AND PROVIDE THE LICENSEE OR REGISTRANT
26 WITH THE RESULTS OF THE CRIMINAL HISTORY CHECK. THE RESULTS SHALL
27 CONTAIN ANY CRIMINAL HISTORY RECORD INFORMATION CONCERNING THE

1 INDIVIDUAL MAINTAINED BY THE DEPARTMENT OF STATE POLICE AND THE
2 RESULTS OF THE FEDERAL BUREAU OF INVESTIGATION'S CRIMINAL HISTORY
3 CHECK.

4 (E) THE LICENSEE OR REGISTRANT SHALL SUBMIT THE RESULTS OF THE
5 CRIMINAL HISTORY CHECK DESCRIBED IN SUBDIVISION (D) TO THE
6 COMMISSIONER WITH THE APPLICATION FOR LOAN OFFICER REGISTRATION
7 DESCRIBED IN SUBSECTION (4) OR FOR PURPOSES OF SUBSECTION (5).

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

13 (G) IF A CRIMINAL ARREST FINGERPRINT CARD IS SUBSEQUENTLY
14 SUBMITTED TO THE DEPARTMENT OF STATE POLICE AND MATCHES AGAINST A
15 FINGERPRINT THAT WAS SUBMITTED UNDER THIS SUBSECTION AND STORED BY
16 THE DEPARTMENT OF STATE POLICE IN ITS AUTOMATED FINGERPRINT
17 IDENTIFICATION SYSTEM (AFIS) DATABASE, THE DEPARTMENT OF STATE
18 POLICE SHALL NOTIFY THE COMMISSIONER.

19 (3) Beginning ~~January~~ APRIL 1, 2009, if an individual is
20 employed or engaged as an agent to originate mortgage loans by a
21 licensee or registrant, that individual shall apply for loan
22 officer registration under this section within 90 days after he or
23 she begins providing services as an employee or agent of the
24 licensee or registrant, by submitting the application described in
25 subsection (4), in writing, and including with the application the
26 annual operating fee established under section 8(3).

27 (4) The commissioner shall prescribe the form of application

1 for registration as a loan officer. Subject to subsection ~~(9)~~(8),
2 the application form shall require that an applicant provide at
3 least all of the following to the commissioner:

4 (a) The name and home address of the applicant.

5 (b) A statement as to whether the applicant has ever been
6 convicted of, or pled no contest to, any of the following:

7 (i) A misdemeanor involving embezzlement, forgery, fraud, a
8 financial transaction, or securities.

9 (ii) A felony.

10 (c) A statement as to whether the applicant has had an
11 application denied, or a license, registration, or similar
12 authority revoked or suspended, to practice any profession or
13 occupation in any jurisdiction, including, but not limited to,
14 licensure or registration as a mortgage broker, mortgage lender, or
15 mortgage servicer in which the applicant held more than 25% of the
16 ownership interest or as a loan officer.

17 (d) Except for an application described in subsection (7),
18 proof in the form of a certificate of completion or other evidence
19 acceptable to the commissioner that the applicant has completed at
20 least 24 hours of live professional classroom instruction in this
21 state in an introductory course in residential mortgage lending
22 that is sponsored or provided by a person, and taught by an
23 instructor, approved by the commissioner. The 24 hours of
24 instruction shall include at least 3 hours of live classroom
25 instruction concerning state and federal laws and regulations
26 governing residential mortgage lending, the content of which has
27 been approved by the commissioner.

1 (e) Evidence acceptable to the commissioner that the applicant
2 correctly answered at least 75% of the questions on an examination
3 approved by the commissioner that tests an applicant's knowledge of
4 the contents of the introductory course in residential mortgage
5 lending described in subdivision (d).

6 (f) ~~A copy of the~~ **THE** results of the criminal ~~records~~ **HISTORY**
7 check described in subsection (2).

8 (G) **THE SIGNATURE OF THE APPLICANT AND HIS OR HER DECLARATION**
9 **THAT THE INFORMATION AND STATEMENTS MADE IN OR INCLUDED WITH THE**
10 **APPLICATION ARE TRUE, ACCURATE, AND COMPLETE.**

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

18 (I) ~~(g)~~ Any other information required by the commissioner.

19 (5) Beginning ~~January~~ **APRIL** 1, 2009, an applicant for loan
20 officer registration may perform services as a loan officer while
21 his or her application is pending if all of the following are met:

22 (a) The licensee or registrant that is the employer or
23 principal of the applicant has completed the criminal ~~records~~
24 **HISTORY** check of the applicant described in subsection (2) and
25 submitted the results of that criminal ~~records~~ **HISTORY** check to the
26 commissioner.

27 (b) The criminal ~~records~~ **HISTORY** check described in

1 subdivision (a) does not disclose that the applicant has been
2 convicted of, or pled no contest to, any of the following:

3 (i) A felony or misdemeanor involving embezzlement, forgery,
4 fraud, a financial transaction, or securities.

5 (ii) Within the 10-year period preceding the date of the
6 application, a felony other than a felony described in subparagraph
7 (i).

8 (c) The licensee or registrant that is the employer or
9 principal of the applicant has provided the commissioner with
10 written notice that the applicant is beginning to provide services
11 as a loan officer for the licensee or registrant.

12 (6) The commissioner shall not issue a registration to any of
13 the following:

14 (a) An applicant who has been convicted of, or pled no contest
15 to, any of the following:

16 (i) A felony or misdemeanor involving embezzlement, forgery,
17 fraud, a financial transaction, or securities.

18 (ii) Within the 10-year period preceding the date of the
19 application, a felony other than a felony described in subparagraph
20 (i).

21 (b) An applicant against whom the commissioner has issued a
22 prohibition order under section 18a.

23 (c) An applicant for whom the commissioner has not received
24 the results of the criminal ~~records~~**HISTORY** check described in
25 subsection (2).

26 (7) The commissioner must register a loan officer who meets
27 all of the following:

1 (a) For the 5-year period immediately preceding the effective
2 date of the amendatory act that added this section, he or she was
3 employed or engaged as a loan officer for at least 4-1/2 years by 1
4 or more licensees, registrants, or persons exempt from this act
5 under section 25.

6 (b) He or she was not the subject of any prohibition orders
7 issued by the commissioner under section 18a in the 5-year period
8 immediately preceding the effective date of the amendatory act that
9 added this section.

10 (c) ~~Within 8 months after the effective date of the amendatory~~
11 ~~act that added this section~~ **BEFORE APRIL 1, 2009**, he or she takes
12 the examination described in subsection (4)(e) and correctly
13 answers at least 75% of the questions on the examination.

14 (d) ~~Within 8 months after the effective date of the amendatory~~
15 ~~act that added this section~~ **BEFORE APRIL 1, 2009**, he or she submits
16 an application under subsection (4). However, the applicant is not
17 required to complete or submit proof of completion of the
18 instruction described in subsection (4)(d).

19 (e) He or she is not an applicant described in subsection (6).

20 ~~(8) An employee or agent of a mortgage broker, mortgage~~
21 ~~lender, or mortgage servicer that is exempt from licensing or~~
22 ~~registration under this act may apply to be a loan officer~~
23 ~~registrant under this section.~~

24 (8) ~~(9)~~—The commissioner may waive any of the requirements of
25 this section for loan officer registration if the applicant has a
26 valid, similar license or registration from another state that has
27 a reciprocal agreement with the commissioner, except subsection

1 (6) (a) and (c).

2 (9) ~~(10)~~—The commissioner may disclose, provide, or make
3 available to the public the names, business addresses, and business
4 telephone numbers of loan officer registrants. The commissioner
5 shall not disclose, provide, or make available to the public any
6 other personal identifying information about loan officer
7 registrants or applicants for loan officer registration.

8 (10) ~~(11)~~—Beginning ~~January~~ **APRIL** 1, 2009, an individual
9 employed or engaged as an agent by a licensee or registrant as a
10 loan officer shall not use the title or designation "loan officer",
11 "loan originator", "mortgage loan officer", or "mortgage loan
12 originator" if he or she is not a loan officer registrant. A loan
13 officer registrant and the employer or principal of a loan officer
14 registrant shall not use the word "registered", "certified", or any
15 word of similar import in his or her title or designation to
16 identify him or her as an individual who has met the registration
17 requirements of this act unless use of that word is approved by the
18 office of financial and insurance services.

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

- 22 (a) Senate Bill No. 1552.
23 (b) Senate Bill No. 1553.
24 (c) Senate Bill No. 1555.
25 (d) House Bill No. 6562.