

SENATE BILL No. 343

March 7, 2007, Introduced by Senators PAPPAGEORGE, BROWN, RICHARDVILLE, KAHN and GARCIA and referred to the Committee on Banking and Financial Institutions.

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:

1 Sec. 27. (1) In addition to the penalties provided by this
2 act, a violation of this act with respect to a particular secondary
3 mortgage loan transaction is also subject to the penalty and remedy
4 provisions of the credit reform act, 1995 PA 162, MCL 445.1851 to
5 445.1864.

6 (2) A person, association, nonprofit corporation, common law
7 trust, joint stock company, limited liability company, or any other
8 group of individuals, however organized, or any owner, partner,
9 member, officer, director, trustee, employee, agent, broker, or
10 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, imprisonment for not more than 3 years, or both: -

(A) ENGAGES IN THIS STATE IN THE BUSINESS OF MAKING SECONDARY MORTGAGE LOANS WITHOUT A LICENSE AS REQUIRED UNDER THIS ACT.

(B) SUBJECT TO SUBSECTION (5), COERCES OR INDUCES A REAL ESTATE APPRAISER TO INFLATE THE VALUE OF REAL PROPERTY USED AS COLLATERAL FOR A SECONDARY MORTGAGE LOAN 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 fine of not more than \$1,000.00 for each offense. 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.

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

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

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

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

11 **(5) SUBSECTION (2) (B) DOES NOT PROHIBIT A BROKER OR LENDER**
12 **FROM COMMUNICATING A PRICE OR VALUE CONCERNING REAL PROPERTY USED**
13 **AS COLLATERAL FOR A SECONDARY MORTGAGE LOAN TO THE REAL ESTATE**
14 **APPRAISER.**