

SENATE BILL No. 1554

November 5, 2008, Introduced by Senators JANSEN, RICHARDVILLE, SANBORN, BARCIA, BROWN, BIRKHOLZ, PAPPAGEORGE, GARCIA and BASHAM and referred to the Committee on Banking and Financial Institutions.

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~~ **APRIL** 1, 2009, a licensee or registrant
6 that employs or offers to employ, or engages or offers to engage as
7 an agent, an individual **AS A LOAN OFFICER** to originate mortgage
8 loans shall conduct a criminal ~~records check of that individual and~~
9 ~~submit the results of the criminal records check to the~~

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

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

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

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

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

1 CONTAIN ANY CRIMINAL HISTORY RECORD INFORMATION CONCERNING THE
2 INDIVIDUAL MAINTAINED BY THE DEPARTMENT OF STATE POLICE AND THE
3 RESULTS OF THE FEDERAL BUREAU OF INVESTIGATION'S CRIMINAL HISTORY
4 CHECK.

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

9 (3) Beginning ~~January~~ **APRIL** 1, 2009, if an individual is
10 employed or engaged as an agent to originate mortgage loans by a
11 licensee or registrant, that individual shall apply for loan
12 officer registration under this section within 90 days after he or
13 she begins providing services as an employee or agent of the
14 licensee or registrant, by submitting the application described in
15 subsection (4), in writing, and including with the application the
16 annual operating fee established under section 8(3).

17 (4) The commissioner shall prescribe the form of application
18 for registration as a loan officer. Subject to subsection ~~(9)~~ **(8)**,
19 the application form shall require that an applicant provide at
20 least all of the following to the commissioner:

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

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

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

26 (ii) A felony.

27 (c) A statement as to whether the applicant has had an

1 application denied, or a license, registration, or similar
2 authority revoked or suspended, to practice any profession or
3 occupation in any jurisdiction, including, but not limited to,
4 licensure or registration as a mortgage broker, mortgage lender, or
5 mortgage servicer in which the applicant held more than 25% of the
6 ownership interest or as a loan officer.

7 (d) Except for an application described in subsection (7),
8 proof in the form of a certificate of completion or other evidence
9 acceptable to the commissioner that the applicant has completed at
10 least 24 hours of live professional classroom instruction in this
11 state in an introductory course in residential mortgage lending
12 that is sponsored or provided by a person, and taught by an
13 instructor, approved by the commissioner. The 24 hours of
14 instruction shall include at least 3 hours of live classroom
15 instruction concerning state and federal laws and regulations
16 governing residential mortgage lending, the content of which has
17 been approved by the commissioner.

18 (e) Evidence acceptable to the commissioner that the applicant
19 correctly answered at least 75% of the questions on an examination
20 approved by the commissioner that tests an applicant's knowledge of
21 the contents of the introductory course in residential mortgage
22 lending described in subdivision (d).

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

25 **(G) THE SIGNATURE OF THE APPLICANT, AND HIS OR HER**
26 **DECLARATION, MADE UNDER PENALTIES OF PERJURY, THAT THE INFORMATION**
27 **AND STATEMENTS MADE IN OR INCLUDED WITH THE APPLICATION ARE TRUE,**

1 ACCURATE, AND COMPLETE.

2 (H) THE SIGNATURE OF AN OFFICER ON BEHALF OF THE LICENSEE OR
3 REGISTRANT THAT EMPLOYS OR OFFERS TO EMPLOY, OR ENGAGES OR OFFERS
4 TO ENGAGE AS AN AGENT, THE APPLICANT, AND THE OFFICER'S DECLARATION
5 ON BEHALF OF THE LICENSEE OR REGISTRANT, MADE UNDER PENALTIES OF
6 PERJURY, THAT THE INFORMATION AND STATEMENTS IN OR INCLUDED WITH
7 THE APPLICATION ARE TRUE, ACCURATE, AND COMPLETE TO THE BEST OF HIS
8 OR HER KNOWLEDGE AND BELIEF.

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

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

13 (a) The licensee or registrant that is the employer or
14 principal of the applicant has completed the criminal ~~records~~
15 **HISTORY** check of the applicant described in subsection (2) and
16 submitted the results of that criminal ~~records~~ **HISTORY** check to the
17 commissioner.

18 (b) The criminal ~~records~~ **HISTORY** check described in
19 subdivision (a) does not disclose that the applicant has been
20 convicted of, or pled no contest to, any of the following:

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

23 (ii) Within the 10-year period preceding the date of the
24 application, a felony other than a felony described in subparagraph

25 (i).

26 (c) The licensee or registrant that is the employer or
27 principal of the applicant has provided the commissioner with

1 written notice that the applicant is beginning to provide services
2 as a loan officer for the licensee or registrant.

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

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

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

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

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

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

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

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

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

1 (c) Within 8 months after the effective date of the amendatory
2 act that added this section, he or she takes the examination
3 described in subsection (4)(e) and correctly answers at least 75%
4 of the questions on the examination.

5 (d) Within 8 months after the effective date of the amendatory
6 act that added this section, he or she submits an application under
7 subsection (4). However, the applicant is not required to complete
8 or submit proof of completion of the instruction described in
9 subsection (4)(d).

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

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

15 (8) ~~(9)~~—The commissioner may waive any of the requirements of
16 this section for loan officer registration if the applicant has a
17 valid, similar license or registration from another state that has
18 a reciprocal agreement with the commissioner, except subsection
19 (6)(a) and (c).

20 (9) ~~(10)~~—The commissioner may disclose, provide, or make
21 available to the public the names, business addresses, and business
22 telephone numbers of loan officer registrants. The commissioner
23 shall not disclose, provide, or make available to the public any
24 other personal identifying information about loan officer
25 registrants or applicants for loan officer registration.

26 (10) ~~(11)~~—Beginning ~~January~~ **APRIL** 1, 2009, an individual
27 employed or engaged as an agent by a licensee or registrant as a

1 loan officer shall not use the title or designation "loan officer",
2 "loan originator", "mortgage loan officer", or "mortgage loan
3 originator" if he or she is not a loan officer registrant. A loan
4 officer registrant and the employer or principal of a loan officer
5 registrant shall not use the word "registered", "certified", or any
6 word of similar import in his or her title or designation to
7 identify him or her as an individual who has met the registration
8 requirements of this act unless use of that word is approved by the
9 office of financial and insurance services.

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

13 (a) Senate Bill No.____ or House Bill No.____ (request no.
14 06815'08).

15 (b) Senate Bill No.____ or House Bill No.____ (request no.
16 08018'08 *).

17 (c) Senate Bill No.____ or House Bill No.____ (request no.
18 08020'08 *).

19 (d) Senate Bill No.____ or House Bill No.____ (request no.
20 08164'08).