

SENATE BILL No. 1555

November 5, 2008, Introduced by Senators BARCIA, RICHARDVILLE, SANBORN, 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 2 (MCL 445.1652), as amended by 2008 PA 59.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) A person shall not act as a mortgage broker,
 2 mortgage lender, or mortgage servicer without first obtaining a
 3 license ~~or registering~~ under this act **OR REGISTERING UNDER SECTION**
 4 **6**, unless 1 or more of the following apply:

5 (a) The person is ~~solely performing~~ **PROVIDING LOAN OFFICERS**
 6 services as an employee **OR AGENT** of only 1 mortgage broker,
 7 mortgage lender, or mortgage servicer ~~. This subdivision does not~~
 8 ~~apply after December 31, 2008.~~ **AND IS REGISTERED AS A LOAN OFFICER**
 9 **REGISTRANT IF THAT REGISTRATION IS REQUIRED UNDER THIS ACT.**

1 (b) The person is exempted from the act under section 25.

2 (c) The person is licensed as a class I licensee under the
3 consumer financial services act, 1988 PA 161, MCL 487.2051 to
4 487.2072.

5 (d) The individual is an employee of a professional employer
6 organization, as that term is defined in section 113 of the
7 Michigan business tax act, 2007 PA 36, MCL 208.1113, solely acting
8 as a residential mortgage originator of only 1 mortgage broker or
9 mortgage lender. The mortgage broker or mortgage lender shall do
10 all of the following:

11 (i) Direct and control the activities of the individual under
12 this act.

13 (ii) Be responsible for all activities of the individual and
14 assume responsibility for the individual's actions that are covered
15 by the proof of financial responsibility deposit required under
16 section 4.

17 (2) A person that is licensed to make regulatory loans under
18 the regulatory loan act, 1939 PA 21, MCL 493.1 to 493.24, or is
19 licensed to make secondary mortgage loans under the secondary
20 mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81, and is
21 registered with the commissioner shall file with the commissioner
22 an application for a license under section 3(1) or shall
23 discontinue all activities that are subject to this act.

24 (3) Unless a residential mortgage originator is otherwise
25 licensed or registered under this act, a residential mortgage
26 originator shall not receive directly or indirectly any
27 compensation, commission, fee, points, or other remuneration or

1 benefits from a mortgage broker, mortgage lender, or mortgage
2 servicer other than the employer of the residential mortgage
3 originator. This subsection does not apply after ~~December 31, 2008~~
4 **MARCH 31, 2009.**

5 (4) Beginning ~~January~~**APRIL** 1, 2009, a loan officer shall not
6 directly or indirectly receive any compensation, commission, fee,
7 points, or other remuneration or benefits for originating a
8 mortgage loan unless both of the following are met:

9 (a) The loan officer is a loan officer registrant.

10 (b) The compensation, commission, fee, points, or other
11 remuneration or benefits are paid by the licensee or registrant for
12 which the loan officer originated that mortgage loan.

13 (5) Unless a residential mortgage originator is otherwise
14 licensed or registered under this act, a mortgage broker, mortgage
15 lender, or mortgage servicer shall not pay directly or indirectly
16 any compensation, commission, fee, points, or other remuneration or
17 benefits to a residential mortgage originator other than an
18 employee of the mortgage broker, mortgage lender, or mortgage
19 servicer. As used in this subsection and subsection (3),
20 "residential mortgage originator" means a person who assists
21 another person in obtaining a mortgage loan. This subsection does
22 not apply after ~~December 31, 2008~~**MARCH 31, 2009.**

23 (6) Beginning ~~January~~**APRIL** 1, 2009, a mortgage broker,
24 mortgage lender, or mortgage servicer shall not directly or
25 indirectly pay any compensation, commission, fee, points, or other
26 remuneration or benefits to any of the following:

27 (a) A loan officer who is not a loan officer registrant.

1 (b) A loan officer registrant who is not an employee or agent
2 of that mortgage broker, mortgage lender, or mortgage servicer.

3 (7) A mortgage broker, mortgage lender, or mortgage servicer
4 that is exempt from regulation under this act and is a subsidiary
5 or affiliate of a depository financial institution or a depository
6 financial institution holding company that does not maintain a main
7 office or branch office in this state, shall register under section
8 6 or shall discontinue all activities subject to this act.

9 (8) Except for a state or nationally chartered bank, savings
10 bank, or an affiliate of a bank or savings bank, the person subject
11 to this act shall not include in its name or assumed name, the
12 words "bank", "banker", "banking", "banc", "bankcorp", "bancorp",
13 or any other words or phrases that would imply that the person is a
14 bank, is engaged in the business of banking, or is affiliated with
15 a bank or savings bank. It is not a violation of this subsection
16 for a licensee or registrant to use the term "mortgage banker" or
17 "mortgage banking" in its name or assumed name. A person subject to
18 this act whose name or assumed name on January 1, 1995 contained a
19 word prohibited by this section may continue to use the name or
20 assumed name.

21 (9) As used in this section, "employee" means that term as
22 defined in section 3401 of the internal revenue code, 26 USC 3401.

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

26 (a) Senate Bill No.____ or House Bill No.____ (request no.
27 06815'08).

1 (b) Senate Bill No.____ or House Bill No.____ (request no.
2 08018'08 *).

3 (c) Senate Bill No.____ or House Bill No.____ (request no.
4 08019'08).

5 (d) Senate Bill No.____ or House Bill No.____ (request no.
6 08020'08 *).