

Act No. 327
Public Acts of 2008
Approved by the Governor
December 17, 2008
Filed with the Secretary of State
December 18, 2008
EFFECTIVE DATE: December 18, 2008

**STATE OF MICHIGAN
94TH LEGISLATURE
REGULAR SESSION OF 2008**

**Introduced by Senators Jansen, Richardville, Sanborn, Barcia, Brown, Birkholz, Pappageorge, Garcia
and Basham**

ENROLLED SENATE BILL No. 1554

AN ACT to amend 1987 PA 173, entitled "An act to define and regulate mortgage brokers, mortgage lenders, and mortgage servicers and their loan officers; to prescribe the powers and duties of certain public officers and agencies; to provide for the promulgation of rules; and to provide remedies and penalties," by amending section 2a (MCL 445.1652a), as added by 2008 PA 60.

The People of the State of Michigan enact:

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

(2) A licensee or registrant that employs or offers to employ, or engages or offers to engage as an agent, an individual as a loan officer to originate mortgage loans after March 31, 2009 shall conduct a criminal history check of that individual. All of the following apply to the criminal history check of an individual required under this subsection:

(a) The department of state police and the federal bureau of investigation shall perform the criminal history check required under this subsection.

(b) The individual who is the subject of the criminal history check shall have his or her fingerprints taken by a law enforcement agency or by another person that the commissioner determines is qualified to take fingerprints; pay the agency or person the fees required by the department of state police under section 3 of 1935 PA 120, MCL 28.273, and by the federal bureau of investigation, for processing fingerprints and completing a criminal history check; and request that the agency or person forward the fingerprints, a request for a criminal history check of the individual in the format and as prescribed by the department of state police, and the fees to the department of state police.

(c) The department of state police shall forward the fingerprints and appropriate fee to the federal bureau of investigation for a national criminal history check.

(d) After receiving a proper request and the required fees under this subsection, the department of state police shall conduct the criminal history check and provide the licensee or registrant with the results of the criminal history check. The results shall contain any criminal history record information concerning the individual maintained by the department of state police and the results of the federal bureau of investigation's criminal history check.

(e) The licensee or registrant shall submit the results of the criminal history check described in subdivision (d) to the commissioner with the application for loan officer registration described in subsection (4) or for purposes of subsection (5).

(f) A criminal history check required under this subsection may be conducted by the licensee or registrant, requested of and performed by the department of state police and the federal bureau of investigation, and submitted to the commissioner at any time on or after January 1, 2009.

(g) If a criminal arrest fingerprint card is subsequently submitted to the department of state police and matches against a fingerprint that was submitted under this subsection and stored by the department of state police in its automated fingerprint identification system (AFIS) database, the department of state police shall notify the commissioner.

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

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

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

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

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

(ii) A felony.

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

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

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

(f) The results of the criminal history check described in subsection (2).

(g) The signature of the applicant and his or her declaration that the information and statements made in or included with the application are true, accurate, and complete.

(h) The signature of an executive officer on behalf of the licensee or registrant that employs or offers to employ, or engages or offers to engage as an agent, the applicant, and the executive officer's certification on behalf of the licensee or registrant that the information and statements in or included with the application are true, accurate, and complete to the best of his or her knowledge and belief.

(i) Any other information required by the commissioner.

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

(a) The licensee or registrant that is the employer or principal of the applicant has completed the criminal history check of the applicant described in subsection (2) and submitted the results of that criminal history check to the commissioner.

(b) The criminal history check described in subdivision (a) does not disclose that the applicant has been convicted of, or pled no contest to, any of the following:

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

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

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

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

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

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

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

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

(c) An applicant for whom the commissioner has not received the results of the criminal history check described in subsection (2).

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

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

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

(c) Before April 1, 2009, he or she takes the examination described in subsection (4)(e) and correctly answers at least 75% of the questions on the examination.

(d) Before April 1, 2009, he or she submits an application under subsection (4). However, the applicant is not required to complete or submit proof of completion of the instruction described in subsection (4)(d).

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

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

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

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

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

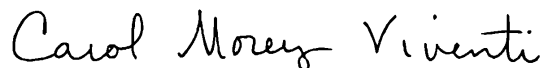
(a) Senate Bill No. 1552.

(b) Senate Bill No. 1553.

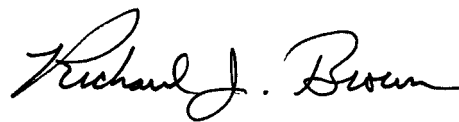
(c) Senate Bill No. 1555.

(d) House Bill No. 6562.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved _____

Governor