

Act No. 76  
Public Acts of 2009  
Approved by the Governor  
July 28, 2009  
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July 29, 2009  
EFFECTIVE DATE: July 31, 2010

**STATE OF MICHIGAN  
95TH LEGISLATURE  
REGULAR SESSION OF 2009**

**Introduced by Senators Stamas, Richardville, Sanborn, Olshove, Cherry, Anderson, Hardiman, Pappageorge,  
Patterson and Kahn**

# **ENROLLED SENATE BILL No. 463**

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 the title and sections 1a, 2, 8, 10, 11, 12, 14, 29, and 33 (MCL 445.1651a, 445.1652, 445.1658, 445.1660, 445.1661, 445.1662, 445.1664, 445.1679, and 445.1683), the title as amended by 2008 PA 66, section 1a as amended by 2009 PA 13, section 2 as amended by 2008 PA 328, section 8 as amended by 2008 PA 326, section 10 as amended by 2008 PA 69, sections 11 and 12 as amended by 2008 PA 62, section 14 as amended by 2008 PA 63, section 29 as amended by 2008 PA 529, and section 33 as amended by 2008 PA 324; and to repeal acts and parts of acts.

*The People of the State of Michigan enact:*

## TITLE

An act to define and regulate mortgage brokers, mortgage lenders, and mortgage servicers; 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.

Sec. 1a. As used in this act:

(a) "Affiliate" means a person or group of persons that directly or indirectly through 1 or more intermediaries controls, is controlled by, or is under common control with another person and engaged in a business or transaction regulated by this act.

(b) "Board" means the mortgage industry advisory board created in section 33.

(c) "Commissioner" means the commissioner of the office of financial and insurance regulation of the department of energy, labor, and economic growth or his or her authorized agent.

(d) "Construction loan" means a mortgage loan to construct a 1-to-4 family dwelling, that is approved and closed before completion of the construction of the improvement on the real property.

(e) "Control person" means a director or executive officer of a licensee or registrant or a person who has the authority to participate in the direction, directly or indirectly through 1 or more other persons, of the management or policies of a licensee or registrant.

(f) "Depository financial institution" means a state or nationally chartered bank, a state or federally chartered savings and loan association, savings bank, or credit union, or an entity of the federally chartered farm credit system.

(g) "Employee" means an individual who meets both of the following:

(i) Has an employment relationship acknowledged by that individual and the licensee or registrant that engages that individual to originate mortgage loans.

(ii) Is treated as an employee by the licensee or registrant that engages that individual to originate mortgage loans for compliance with federal income tax laws.

(h) "Executive officer" means an officer, member, or partner of a licensee or registrant. The term includes the chief executive officer, president, vice president, chief financial officer, controller, or compliance officer or an individual holding any other similar position.

(i) "Financial licensing act" means the consumer financial services act, 1988 PA 161, MCL 487.2051 to 487.2072, and any of the acts listed in section 2 of the consumer financial services act, 1988 PA 161, MCL 487.2052.

(j) "Firm commitment" means an underwriting in which a broker-dealer commits to buy the mortgage loan or the entire issue of securities based upon or backed by 1 or more mortgage loans and assumes all financial responsibility for any unsold securities.

(k) "Individual investor" means a person that resides in this state or has its principal place of business in this state. The term does not include a bank, savings bank, savings and loan association, credit union, trust company, insurance company, investment company as defined in the investment company act of 1940, 15 USC 80a-1 to 80a-64, pension or profit sharing plan if the assets of the plan are managed by a bank or trust company or other institutional manager, financial institution, institutional manager, broker-dealer that is a member of the New York stock exchange or registered under the uniform securities act, 1964 PA 265, MCL 451.501 to 451.818, or the uniform securities act (2002), 2008 PA 551, MCL 451.2101 to 451.2703, the federal national mortgage association, the government national mortgage association, the federal home loan mortgage corporation, or a mortgage lender or mortgage servicer.

(l) "License" means a license issued under this act.

(m) "Licensed loan officer" means a loan officer who is licensed as a mortgage loan originator under the mortgage loan originator licensing act.

(n) "Licensee" means a person licensed or required to be licensed under this act.

(o) "Loan officer" means an individual who is an employee or agent of a mortgage broker, mortgage lender, or mortgage servicer; who originates mortgage loans; and who is not an employee or agent of a depository financial institution or a subsidiary or affiliate of a depository financial institution.

(p) "Mortgage broker" means a person who, directly or indirectly, does 1 or both of the following:

(i) Serves or offers to serve as an agent for a person in an attempt to obtain a mortgage loan.

(ii) Serves or offers to serve as an agent for a person who makes or offers to make mortgage loans.

(q) "Mortgage lender" means a person who, directly or indirectly, makes or offers to make mortgage loans.

(r) "Mortgage loan" means a loan secured by a first mortgage on real property located in this state and used, or improved for use, as a dwelling and designed for occupancy by 4 or fewer families or a land contract covering real property located in this state used, or improved for use, as a dwelling and designed for occupancy by 4 or fewer families. A mortgage loan does not include a home improvement installment contract under the home improvement finance act, 1965 PA 332, MCL 445.1101 to 445.1431.

(s) "Mortgage servicer" means a person who, directly or indirectly, services or offers to service mortgage loans.

(t) "Originate" means any of the following:

(i) To negotiate, arrange, or offer to negotiate or arrange a mortgage loan between a mortgage lender and 1 or more individuals.

(ii) To place, assist in placing, or find a mortgage loan for 1 or more individuals.

(u) "Person" means an individual, corporation, limited liability company, partnership, association, governmental entity, or any other legal entity.

(v) "Real estate broker" means a broker or associate broker licensed under article 25 of the occupational code, 1980 PA 299, MCL 339.2501 to 339.2518.

(w) "Real estate salesperson" means a salesperson licensed under article 25 of the occupational code, 1980 PA 299, MCL 339.2501 to 339.2518.

(x) "Register" means filing a notice with the commissioner on a form prescribed by the commissioner that notifies the commissioner of the intent to engage in the activities of a mortgage broker, mortgage lender, or mortgage servicer

in this state and the payment of any fees required under this act, along with the other documents, proofs, and fees required by the commissioner.

(y) "Registrant" means a person that is registered under section 6 or required to register under section 6.

(z) "Secondary mortgage loan act" means the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81.

(aa) "Service" means the collection or remittance, or the right or obligation to collect or remit, for a lender, noteowner, noteholder, mortgage servicer, or the licensee's or registrant's own account of 4 or more installment payments of the principal, interest, or an amount placed in escrow under a mortgage loan, mortgage servicing agreement, or an agreement with the mortgagor.

Sec. 2. (1) A person shall not act as a mortgage broker, mortgage lender, or mortgage servicer without first obtaining a license under this act or registering under section 6, unless 1 or more of the following apply:

(a) The person is providing loan officer services as an employee or agent of only 1 mortgage broker, mortgage lender, or mortgage servicer and a licensed loan officer if that licensure is required under the mortgage loan originator licensing act.

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

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

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

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

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

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

(3) A loan officer shall not directly or indirectly receive any compensation, commission, fee, points, or other remuneration or benefits for originating a mortgage loan unless both of the following are met:

(a) The loan officer is a licensed loan officer.

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

(4) A mortgage broker, mortgage lender, or mortgage servicer shall not directly or indirectly pay any compensation, commission, fee, points, or other remuneration or benefits to any of the following:

(a) A loan officer who is not a licensed loan officer.

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

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

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

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

Sec. 8. (1) At the time of making an initial application for a license under this act, and at the time of making the first application for a license after the suspension or revocation of a license, an applicant for licensure under this act shall pay to the commissioner a fee for investigating the applicant and the minimum annual operating fee established by the commissioner in subsection (3). To renew a license that is not suspended or revoked, the applicant shall only pay to the

commissioner the annual operating fee established in subsection (3). At the time of filing a registration or a renewal of a registration, a registrant shall pay to the commissioner an annual operating fee established in subsection (3).

(2) If an initial or renewed license or registration described in subsection (1) will have an effective date within 6 months of the expiration date described in section 7, the initial or renewal annual operating fee for that license or registration is 1/2 of the annual operating fee.

(3) The commissioner shall annually establish a schedule of fees that are sufficient to pay, but not to exceed, the office of financial and insurance regulation's reasonably anticipated costs of administering and enforcing this act. Subject to subsection (2), the fees are as follows:

(a) For the investigation of an applicant for a license, a fee of not less than \$400.00 or more than \$1,000.00.

(b) Except as set forth in subdivision (c), a licensee or registrant annually shall pay an operating fee based upon the number of closed mortgage loans the licensee or registrant brokered to other parties, the number of mortgage loans closed by the licensee or registrant during the previous calendar year, and the dollar volume of loans serviced by the licensee or registrant as of December 31 of the previous calendar year. In the 1-year period beginning July 2, 1996, the operating fee shall be not less than \$250.00 and not more than \$2,500.00. Beginning July 2, 1997, in the discretion of the commissioner, subject to the limitation set forth in this subsection, the commissioner may increase the maximum operating fee at an annual rate of not more than 10% in the second, third, and fourth 1-year periods after the 1-year period beginning July 2, 1996, and in the fifth and subsequent years, at an annual rate of not more than the annual increase for the immediately preceding 12-month period in the Detroit consumer price index as reported by the United States department of labor. For purposes of this subdivision, "mortgage loan" includes only mortgage loans subject to this act.

(c) For amending or reissuing a license or registration, a fee of not less than \$15.00 or more than \$200.00.

(d) A licensee or registrant shall pay the actual travel, lodging, and meal expenses incurred by employees of the office of financial and insurance regulation who travel out of state to examine the records of the licensee or investigate the licensee or registrant and the cost of independent investigators employed under section 20(1)(e).

(4) Fees received under this act are not refundable.

(5) If any fees or penalties provided for in this act are not paid when required, the attorney general may maintain an action against the delinquent licensee or registrant for the recovery of the fees or penalties together with interest and costs.

(6) A licensee or registrant who fails to submit to the commissioner a report required under section 7 or section 21 is subject to a penalty of \$25.00 for each day the report is delinquent or \$1,000.00, whichever is less.

(7) A licensee or registrant whose license or registration renewal fee is not received on or before December 31 is subject to a penalty of \$25.00 for each day the fee is delinquent or \$1,000.00, whichever is less.

(8) The department of treasury shall establish and administer a restricted account in the general fund named the MBLSLA fund. The department of treasury shall credit to the account all fees collected under this act or under the commissioner's authority under this act, fees described in section 6a of the secondary mortgage loan act, MCL 493.56a, fees established under the mortgage loan originator licensing act, and money appropriated or received from any source. The department of treasury shall use the money in the account only to provide money to the commissioner to administer and enforce this act, the secondary mortgage loan act, and the mortgage loan originator licensing act and to pay other costs associated with the commissioner's regulatory obligations. Money in the account at the end of a state fiscal year shall not revert to the general fund but shall be carried over in the account to the next state fiscal year.

(9) The annual operating fee set by the commissioner under subsection (3)(b) shall be based upon information in reports filed under section 21.

Sec. 10. (1) A licensee or registrant may surrender a license or registration by delivering to the commissioner the license or registration with written notice that the licensee or registrant surrenders the license or registration. The surrender, revocation, or suspension of a license or registration under this act does not affect the licensee's or registrant's civil or criminal liability for acts committed before the surrender, revocation, or suspension. The surrender of a license or registration does not affect a proceeding to suspend or revoke a license or registration.

(2) Except as otherwise provided by law, a revocation, suspension, or surrender of a license or registration does not impair or affect the obligation of a preexisting contract between the licensee or registrant and another person.

(3) A licensee or registrant whose license or registration has been destroyed or lost may comply with this section by submitting to the commissioner a notarized affidavit of the loss accompanied by written notice that the licensee or registrant surrenders the license or registration.

Sec. 11. (1) The commissioner shall exercise general supervision and control over mortgage brokers, mortgage lenders, and mortgage servicers doing business in this state.

(2) In addition to the other powers granted to the commissioner by this act, the commissioner shall have all of the following powers:

(a) To promulgate reasonable rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, as necessary to implement and administer this act.

(b) To deny an application for a license or registration.

(c) To conduct examinations and investigations of any person as necessary for the efficient enforcement of this act and the rules promulgated under this act.

(d) To advise the attorney general or the prosecuting attorney of a county in which a mortgage broker, mortgage lender, or mortgage servicer is conducting business that the commissioner believes a licensee, registrant, or other person is violating this act. The attorney general or prosecuting attorney may take appropriate legal action to enjoin the operation of the business of the mortgage broker, mortgage lender, or mortgage servicer or prosecute violations of this act.

(e) To bring an action in the Ingham county circuit court in the name and on behalf of this state against a licensee, registrant, or any other person that is participating in, or about to participate in, any unsafe or injurious practice or act in violation of this act or a rule promulgated under this act, to enjoin the person from participating in or continuing the practice or engaging in the act.

(f) To order a person to cease and desist from a violation of this act or a rule promulgated under this act under section 16.

(g) To suspend or revoke a license or registration under section 29.

(h) To require that restitution be made under section 29.

(i) To assess a civil fine under section 29.

(j) To censure a licensee or registrant.

(k) To issue an order to prohibit a person from being employed by, an agent of, or control person of a licensee or registrant under section 18a.

Sec. 12. (1) The commissioner shall give notice to a licensee or registrant of intention to enter an order suspending or revoking that person's license or registration, or notice to an applicant of a refusal to issue a license or registration, in writing and served personally or sent by certified mail to the licensee, registrant, or applicant.

(2) Within 20 days after the notice of the intention to enter an order suspending or revoking a license or registration, or a refusal to issue a license or registration under subsection (1), the licensee, registrant, or applicant may request a hearing to contest the order or refusal. If a hearing regarding suspension or revocation is not requested, the commissioner shall enter a final order regarding the suspension or revocation. A hearing shall be conducted under the provisions of the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

Sec. 14. All of the following shall apply to an investigation conducted under section 13:

(a) The employees or agents of the office of financial and insurance regulation shall complete the investigation within a reasonable period of time.

(b) If the investigation does not disclose evidence of a violation of this act or a rule promulgated or an order issued under this act, the commissioner shall not use the complaint in any subsequent decision to issue, renew, suspend, or revoke the license or suspend or revoke the registration of the person against which the complaint was filed. The commissioner shall forward the results of the investigation to the complainant and the person against whom the complaint was filed.

(c) In addition to any other action authorized by law, if the investigation discloses evidence of a violation of this act or a rule promulgated or an order issued under this act, the commissioner or the attorney general may prepare a formal complaint to be served on the person against which the allegations are made and shall provide a copy of the formal complaint to the complainant.

Sec. 29. (1) An owner, partner, member, officer, director, trustee, employee, agent, broker, or other person, or a representative acting on the authority of that person that willfully or intentionally does any of the following is guilty of a misdemeanor punishable by a fine of not more than \$15,000.00 or imprisonment for not more than 1 year, or both:

(a) Engages in this state in the business of a mortgage broker, mortgage lender, or mortgage servicer without a license or registration required under this act or acts as a loan officer in this state and is not a licensed loan officer if licensure is required under the mortgage loan originator licensing act.

(b) Transfers or assigns a mortgage loan or a security directly representing an interest in 1 or more mortgage loans before the disbursement of 75% or more of the proceeds of the mortgage loan to, or for the benefit of, the borrower. This subdivision does not apply to any of the following:

(i) A land contract not considered to be an equitable mortgage.

(ii) A loan made under a state or federal government program that allows the lender to escrow more than 25% of the loan proceeds for a limited period of time.

(iii) A construction loan.

(iv) A loan that provides in writing that the loan proceeds shall be disbursed to or for the benefit of the borrower in installments or upon the request of the borrower or upon the completion of renovations or repairs to the dwelling situated on the real property subject to the mortgage loan.

(c) Transfers or assigns a mortgage loan or a security representing an interest in 1 or more mortgage loans to an individual investor unless 1 or more of the following apply:

(i) The transfer or assignment is made through a broker-dealer which is a member of the New York stock exchange.

(ii) The transfer or assignment is made through a broker-dealer who meets all of the following criteria:

(A) The broker-dealer is registered under the uniform securities act, 1964 PA 265, MCL 451.501 to 451.818, or the uniform securities act (2002), 2008 PA 551, MCL 451.2101 to 451.2703.

(B) The broker-dealer is not an affiliate of the mortgage lender unless the person acquired the broker-dealer registration, directly or indirectly, before September 1, 1987 under the uniform securities act, 1964 PA 265, MCL 451.501 to 451.818, was affiliated with a mortgage lender before September 1, 1987, and has continuously maintained that registration subsequent to September 1, 1987. For purposes of this subparagraph, if an aggregate of more than 10% of the outstanding voting stock or interest in a corporation, unincorporated organization, partnership, or other legal entity that is a broker-dealer or mortgage lender is sold, transferred, assigned, or otherwise conveyed subsequent to September 1, 1987, the registration is not considered to have been continuously maintained.

(C) The broker-dealer acquired the mortgage loan or security on a firm commitment.

(iii) The transfer or assignment is made to a person who the transferor or assignor believes, or has reasonable grounds to believe, is 1 of the following:

(A) A business entity having either net income from operations after taxes in excess of \$100,000.00 in its last fiscal year or its latest 12-month period, or a net worth in excess of \$1,000,000.00 at the time of purchase.

(B) An individual who, after the purchase, has an investment of more than \$50,000.00 in mortgage loans or securities representing an interest in 1 or more mortgage loans, including installment payments to be made within 1 year after purchase by the individual, has either personal income before taxes in excess of \$100,000.00 for his or her last fiscal year or latest 12-month period and is capable of bearing the economic risk, or net worth in excess of \$1,000,000.00, and has the knowledge and experience in financial and business matters that he or she is capable of evaluating the merits and risks of the prospective investment, or has obtained the advice of an attorney, certified public accountant, or investment adviser registered under the investment advisers act of 1940, or an investment adviser registered under the uniform securities act, 1964 PA 265, MCL 451.501 to 451.818, or the uniform securities act (2002), 2008 PA 551, MCL 451.2101 to 451.2703, with respect to the merits and risks of the prospective investment.

(iv) A transferor or assignor does not maintain its principal place of business in this state and the transferee or assignee is not a resident of this state and does not maintain its principal place of business in this state.

(d) Coerces or induces a real estate appraiser to inflate the value of real property used as collateral for a mortgage loan, including, but not limited to, 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.

(2) Subject to subsections (4) and (5), if the commissioner finds that a licensee or registrant, has violated, or directly or indirectly counseled, aided, or abetted in a violation, of this act or the rules promulgated under this act, the commissioner may do 1 or more of the following:

(a) Assess a civil fine against the licensee or registrant or a person who controls the licensee or registrant of not more than \$3,000.00 for each violation, except that the licensee or registrant or the person shall not be fined more than \$30,000.00 for a transaction resulting in more than 1 violation, plus the costs of investigation.

(b) Suspend or revoke a license or registration or refuse to issue a license or renew a license or registration.

(c) Require the licensee or registrant or a person who controls the licensee or registrant to make restitution to each injured individual, if the commissioner finds that the violation of this act or a rule promulgated under this act resulted in an injury to 1 or more individuals.

(3) A civil fine assessed under subsection (2) may be sued for and recovered by and in the name of the commissioner and may be collected and enforced by summary proceedings by the attorney general. Each individual injured by a violation of this act or a rule is a separate violation. In determining under subsection (2) the amount of a fine, whether

to suspend or revoke a license or registration, whether to refuse to issue or renew a license, or the amount of restitution, the commissioner shall consider the extent to which the violation was a knowing and willful violation, the extent of the injury suffered because of the violation, the corrective action taken by the licensee or registrant to ensure that the violation will not be repeated, and the record of the licensee or registrant in complying with this act. Any proceedings under this subsection are subject to the procedures of the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(4) Subsection (2) does not apply to a violation of this act that results from a bona fide error that occurs notwithstanding the adoption and observance of reasonable procedures intended to prevent the occurrence of the error.

Sec. 33. (1) The mortgage industry advisory board is created.

(2) All of the following apply to the board:

(a) The board shall consist of 7 individuals, appointed by the commissioner as follows:

(i) Two individuals who are employees of, are directors of, or have at least a 25% ownership interest in a licensee or registrant, selected by the commissioner from a list of at least 3 nominees provided to the commissioner by the Michigan mortgage brokers association.

(ii) Two individuals who are employees of, are directors of, or have at least a 25% ownership interest in a licensee or registrant, selected by the commissioner from a list of at least 3 nominees provided to the commissioner by the Michigan mortgage lenders association.

(iii) One employee who is an employee of, a director of, or who has at least a 25% ownership interest in a licensee or registrant that is a member of any trade association operating in this state that represents mortgage brokers, mortgage lenders, or mortgage servicers. The trade associations may recommend candidates for this position to the commissioner.

(iv) Two individuals who are employees of, are directors of, or have at least a 25% ownership interest in business entities that provide services to or purchase services from licensees or registrants.

(b) The term of a board member is 4 years, except that for the first board, the commissioner shall appoint 3 individuals for 2-year terms so that the terms of office of board members are staggered.

(c) An individual may not serve more than 2 consecutive 4-year terms, and the commissioner may not reappoint an individual who serves 2 consecutive 4-year terms on the board for at least 12 months after the end of those consecutive terms.

(d) The board shall not include more than 1 member who is employed by, is a director of, or has more than a 1% ownership interest in the same licensee, registrant, affiliate, or other person.

(e) Each member of the board shall serve without compensation. However, the office of financial and insurance services shall reimburse a member of the board for his or her travel and other expenses incurred in the performance of an official board function pursuant to the standard travel regulations of the department of management and budget.

(f) The board shall retain minutes of its meetings and any other records of the board for at least 10 years. The board shall make its minutes and any other records prepared, owned, used, in the possession of, or retained by the board in the performance of an official function available to the commissioner immediately on request and make those minutes and records available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(3) The board shall communicate to the commissioner issues of concern to the residential mortgage industry and shall review and make recommendations to the commissioner concerning all of the following:

(a) Rules proposed under this act, the secondary mortgage loan act, or the mortgage loan originator licensing act.

(b) Procedures for maintaining the confidentiality of personal identifying information and other information concerning all of the following:

(i) Licensees, registrants, and applicants for licensure or registration.

(ii) Licensees, registrants, and applicants for licensure or registration under the secondary mortgage loan act.

(iii) Licensees or applicants for licensure under the mortgage loan originator licensing act.

(c) Any other issue referred to the board by the commissioner.

Enacting section 1. Sections 2a, 2b, 2c, and 22b of the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1652a, 445.1652b, 445.1652c, and 445.1672b, are repealed effective July 31, 2010.

Enacting section 2. This amendatory act takes effect July 31, 2010.

Enacting section 3. This amendatory act does not take effect unless Senate Bill No. 462 of the 95th Legislature is enacted into law.

This act is ordered to take immediate effect.

*Carol Morey Viventi*

Secretary of the Senate

*Richard J. Brown*

Clerk of the House of Representatives

Approved .....

.....  
Governor