

SENATE BILL No. 1283

September 19, 2012, Introduced by Senators GREEN and BOOHER 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 1a (MCL 445.1651a), as amended by 2009 PA 76.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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~~ **LICENSING AND REGULATORY AFFAIRS** or his

1 or her authorized agent.

2 (d) "Construction loan" means a mortgage loan to construct a
3 1-to-4 family dwelling, that is approved and closed before
4 completion of the construction of the improvement on the real
5 property.

6 (e) "Control person" means a director or executive officer of
7 a licensee or registrant or ~~a person~~ **AN INDIVIDUAL** who has the
8 authority to participate in the direction, directly or indirectly
9 through 1 or more other persons, of the management or policies of a
10 licensee or registrant.

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

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

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

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

23 (h) "Executive officer" means an officer, member, or partner
24 of a licensee or registrant. The term includes the chief executive
25 officer, president, vice president, chief financial officer,
26 controller, or compliance officer or ~~an individual holding~~ **ANY**
27 **OTHER INDIVIDUAL WHO HOLDS** any other similar position.

1 (i) "Financial licensing act" means the consumer financial
2 services act, 1988 PA 161, MCL 487.2051 to 487.2072, and any of the
3 acts listed in section 2 of the consumer financial services act,
4 1988 PA 161, MCL 487.2052.

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

9 (k) "Individual investor" means a person that resides in this
10 state or has its principal place of business in this state. The
11 term does not include a bank, savings bank, savings and loan
12 association, credit union, trust company, insurance company,
13 investment company as defined in the investment company act of
14 1940, 15 USC 80a-1 to 80a-64, pension or profit sharing plan if the
15 assets of the plan are managed by a bank or trust company or other
16 institutional manager, financial institution, institutional
17 manager, broker-dealer that is a member of the New York stock
18 exchange or registered under the uniform securities act, 1964 PA
19 265, MCL 451.501 to 451.818, or the uniform securities act (2002),
20 2008 PA 551, MCL 451.2101 to 451.2703, the federal national
21 mortgage association, the government national mortgage association,
22 the federal home loan mortgage corporation, or a mortgage lender or
23 mortgage servicer.

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

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

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

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

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

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

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

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

16 (r) "Mortgage loan" means a loan secured by a first mortgage
17 on real property located in this state and used, or improved for
18 use, as a dwelling and designed for occupancy by 4 or fewer
19 families or a land contract covering real property located in this
20 state used, or improved for use, as a dwelling and designed for
21 occupancy by 4 or fewer families. ~~A mortgage~~ **MORTGAGE** loan does not
22 include ~~a~~ **ANY OF THE FOLLOWING:**

23 (i) **A** home improvement installment contract under the home
24 improvement finance act, 1965 PA 332, MCL 445.1101 to 445.1431.

25 (ii) **A LOAN TRANSACTION IN WHICH THE PROCEEDS ARE NOT USED**
26 **PRIMARILY FOR A PERSONAL, FAMILY, OR HOUSEHOLD PURPOSE.**

27 (s) "Mortgage servicer" means a person ~~who,~~ **THAT**, directly or

1 indirectly, services or offers to service mortgage loans.

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

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

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

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

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

13 (w) "Real estate salesperson" means a salesperson licensed
14 under article 25 of the occupational code, 1980 PA 299, MCL
15 339.2501 to 339.2518.

16 (x) "Register" means filing a notice with the commissioner on
17 a form prescribed by the commissioner that notifies the
18 commissioner of the intent to engage in the activities of a
19 mortgage broker, mortgage lender, or mortgage servicer in this
20 state and the payment of any fees required under this act, along
21 with the other documents, proofs, and fees required by the
22 commissioner.

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

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

27 (aa) "Service" means the collection or remittance, or the

1 right or obligation to collect or remit, for a lender, noteowner,
2 noteholder, mortgage servicer, or the licensee's or registrant's
3 own account of 4 or more installment payments of the principal,
4 interest, or an amount placed in escrow under a mortgage loan,
5 mortgage servicing agreement, or an agreement with the mortgagor.