



Telephone: (517) 373-5383

Fax: (517) 373-1986

House Bill 5084 (Substitute H-2 as passed by the House)

Sponsor: Representative Diana Farrington House Committee: Financial Services

Wavs and Means

Senate Committee: Insurance and Banking

Date Completed: 11-5-19

## **CONTENT**

The bill would amend the Mortgage Loan Originator Licensing Act to grant certain individuals temporary authority to act as a mortgage loan originator without first obtaining a license, and specify the period of time for which the temporary authority would apply.

Under the bill, an individual who was a registered mortgage loan originator, upon being employed by an entity that was not a depository institution or its subsidiary that was owned and controlled by that depository institution and was regulated by a Federal banking agency or an institution regulated by the Farm Credit Administration would have temporary authority to act as a mortgage loan originator for the period described below without first obtaining a license under the Act if all of the following applied:

- -- The individual was employed by an entity that was licensed or registered under the Mortgage Brokers, Lenders, and Servicers Licensing Act, the Secondary Mortgage Loan Act, or the Consumer Financial Services Act.
- -- The individual had not had an application for a mortgage loan originator license denied, or revoked or suspended in Michigan or any other state.
- -- The individual had not been subject to, or served with, a cease and desist order in Michigan or any other state, or under 12 USC 5113.
- -- The individual had not been convicted of, or pled guilty or no contest to, a misdemeanor or felony that would preclude licensure under the Mortgage Loan Originator Licensing Act.
- -- The individual had submitted an application for a license and the annual operating fee, and had met the applicable surety bond requirement.
- -- The individual was registered in the nationwide mortgage licensing system and registry as a mortgage loan originator during the one-year period immediately preceding the date on which the information required for licensure was submitted.
- -- The individual was not subject to a prohibition order submitted under Section 27 or any of the financial licensing acts.

"State" would mean any state of the United States, the District of Columbia, any U.S. territory, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

(Under 12 USC 5113, if the Director of the Consumer Financial Protection Bureau finds that any person is violating, has violated, or is about to violate any provision of Chapter 51 (Secure and Fair Enforcement for Mortgage Licensing) of the US Code, with respect to a state that is

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subject to a licensing system established by the Director, he or she may publish those findings and enter an order requiring the person to cease and desist from committing or causing such violation and any future violation.

Section 27 of the Act allows the Director to serve on a person he or she believes has engaged in fraud a written notice of intention to prohibit the person from being licensed under the Act, licensed or registered under any of the financial licensing acts, or employed by, an agent of, or a control person of a licensee or registrant under any of the financial licensing acts.)

The period of temporary authority would begin on the date on which the individual submitted the information required for licensure and the annual operating fee, and had met the applicable surety bond requirement, and would end on the earliest of the following dates:

- -- The date on which the individual withdrew the application submitted for licensure.
- -- The date on which the Director of the Department of Insurance and Financial Services denied, or issued a notice of intent to deny, the application.
- -- The date on which the Director approved the application.
- -- The date that was 120 days after the date on which the individual submitted the application, if the application were listed on the nationwide mortgage licensing system and registry as incomplete.

With respect to the temporary authority authorized, both of the following would apply:

- -- A person employing an individual who had temporary authority to act as a mortgage loan originator in Michigan would be subject to the applicable Michigan law to the same extent as if the individual were a licensed mortgage loan originator.
- -- An individual who had temporary authority to act as a mortgage loan originator in Michigan and who engaged in residential mortgage loan origination activities would be subject to the applicable Michigan law to the extent as if that individual were a licensed mortgage loan originator.

The bill would take effect on November 24, 2019.

MCL 439.133 et al. Legislative Analyst: Stephen Jackson

## FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Elizabeth Raczkowski

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.